ANATOLIA COLLEGE MODEL UNITED NATIONS

Rules of Procedure



ICJ – International Court of Justice

ACMUN – A THIMUN-AFFILIATED CONFERENCE

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I. WELCOME

Welcome to this year's ACMUN. We are excited to have you join our stimulation of the International Court of justice. This guide is intended to inform you about the unique format of the ICJ, the rules and procedures of the court and the special terminology used in court.

II. GENERAL STATEMENTS

1. The ICJ consists of the board – President, the Vice-President, the Registrar, two counsels – pairs of Advocates, and a number of judges. In total, the Panel (judges and officers) comprises of an odd number of members, which is usually 15.
2. All members of the Court must show respect toward each other and inappropriate language will not be tolerated.
3. All the matters of the Court shall be discussed in English only.
4. The members of the ICJ shall follow the ACMUN dress code and wear their robes during court sessions only.

III. PREPARATION

Each council, the two advocates representing a country in court, has to prepare a Memorandum. A Memorandum is the equivalent of a Position Paper; it is a complete listing of all the diplomatic issues, events and facts that have happened between the two countries in the past, and are necessary for the judges' understanding of the case. The Memorandum should be submitted a month prior to the trial and it should include:

A. *Statement of facts,* objective facts of the case.

B. *Statement of the law,* references to treaties, past resolutions and laws that apply to the case

C. *Arguments,* where the constructive case of the party is explained, how the previous statements support your party.

D. *Statement of Jurisdiction,* when the case was brought before the ICJ and based on what the case is applicable. Note that the Court will not question the jurisdiction of any case, and that all cases are pre-assumed to satisfy all the conditions concerning the Court's jurisdiction.

E. *Prayer for Relief,* the decision the parties want the court to make.

IV. MEMBERS OF THE COURT

Board

i. President

The President ensures that the ICJ rules and procedures are applied at all times. The President in the ICJ is the equivalent of a Chair in any other ACMUN committee. He/She coordinates the Court sessions and can also act as judge. If there is a tie between the voting upon the verdict, the President has a casting vote. Although the President has to be responsible for the rules of procedure, he/she does not have authority over a judge's vote, unless it's proved to be biased. The President is responsible for announcing the verdict.

ii. Vice President

Along with the President, coordinates the Court sessions and has similar duties to the President. He/She shall assist the President in his duties and should always keep track of the number of meeting that have been held. When substituting for the President, he/she acquires all of his responsibilities, rights and privileges. The Vice President also holds the position of a judge.

iii. Registrar[1]

The Registrar is primarily responsible for taking copious notes of court proceedings, arguments of the conflicted parties, deliberation of the judges and decisions of the Presidents. The Registrar also holds the position of judge. The Registrar will take and record the oaths of the agents and witnesses before presentation of any evidence by the advocates or the testimony of the witnesses. The Oath shall follow as: "I solemnly declare upon my honor and conscience that I will speak the truth, the whole truth and nothing but the truth".[2]

Judges

Judges are responsible for deciding on the outcome of the case and carefully examining the evidence. Each judge has one vote in procedural and substantive voting procedures and should maintain a record of the proceedings of the court. Judges must be unbiased and should not prejudge a case. Should they fail to meet this criterion, there will be an official warning by the President.

An *Ad-hoc judge* is the same as the other judges, but the only difference is that he/ she must be well-informed concerning the country he was chosen by. Ad-Hoc judges have the same rights as all of the other judges and have one vote. The ACMUN ICJ may host 2 ad hoc judges, one per party.

Advocates

The Advocates are the lawyers that represent a country. Advocates shall defend the standing of their State and justify it. The Advocates will present the opening statements, the evidence, will question the witnesses and will be questioned.

Advocates of the *Applicant party* carry the burden of proof, i.e. the requirement that the plaintiff - the applicant party - shows by a "preponderance of evidence" or "weight of evidence" that all the facts necessary to win a judgment are presented and are probably true.[3] Throughout the trial, the Applicant Party tries to persuade the Court of the validity of its arguments and the reprehensible conduct of the opponent country, by introducing relevant documents and pieces of evidence, while supporting orally its position and trying to tackle the opponent's assertions. The Applicant party has to meet its burden of proof in order to win the case

The Respondent Party has the opposite objective compared to the Applicant one. During the trial, it shall try to question the validity of the arguments presented by the Applicant Party by arguing against them and/or introducing opposite piece of evidence. Raising doubts concerning the matter and achieving the most lenient verdict/ or the Applicant party not meeting their Burden Of Proof are the main goals of the Respondent Party.

Witnesses

Three witnesses are chosen by each pair of advocates. The witnesses can be eyewitnesses, experts, officials, locals, authors of a piece of evidence, anyone the advocates consider relevant. The witnesses have to be real in the sense of actual people, such as the MP of the UK. Under their deposition, the witnesses must not abstain from the factual truth. The witnesses are urged to answer the questions sincerely, and if they are not sure about something they are expected to inform the court, by simply saying "I don't know".

Their relevance will later evaluated by the judges. The witnesses are questioned by both parties and the judges. They should be ready to present their testimony at any given time although during the ACMUN there will be given time to the advocates to prepare their witnesses.

[1] http://legal-dictionary.thefreedictionary.com/registrar
[2] ICSID, Rule 35, (3) (https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc_en-archive/78.htm)
[3] Legal Dictionary, (http://dictionary.law.com/Default.aspx?selected=109)

V. COURT PROCEDURE

Welcoming Message by the Board and explanation of Rules and Procedures

1. **Roll Call**

   Roll Call shall be in order in the beginning of every new session and whenever the Board wishes to be informed about the number of judges present in the Courtroom. The Roll Call shall be applied to the Advocates as well.

2. **Submission of the Memorandum**

   The Memorandum is a complete listing of all the diplomatic issues, events and facts that have happened between the two countries in the past, and are necessary for the judges to better understand the case. It ought to include the countries' objectives and expectations from the Court and should reflect their policy. Before the trial starts, the Advocates of each party present their already-prepared memorandum to the Court, first the Applicant Party and then the Respondent one. During this procedure, the clauses that seem to concur, called stipulations, are used by both parties to compose the Common Memorandum that will finally be submitted to the Court. The Registrar shall contribute to the final writing and structure of the stipulations. The Common Memorandum is then handed over to the Administrative Staff to make copies, which will be distributed to the Panel of Judges and the Board.

3. **Motion to Open Debate**

   The Board declares the Court in Session only if the absolute majority (8 out of 15) of judges present is reached, including the members of the Board themselves. For the voting on a judgment to take place, the presence of minimum 10 judges, including the Board, shall be requested.

4. **Stipulations**

   The first order of business in the court are the stipulations. The stipulations are statements that both parties have agreed on prior to the conference and cannot be changed during the court session.

5. **Opening Statements and Stipulations** *70 minutes*

   Opening Statements are quite similar to the advocates' memorandum. Each party presents their cases, providing information on the key points of the case, such as specific treaties, past events, etc., as well as their prayers for relief. Once the applicant party finishes this phase, the respondent will proceed. During this phase of the court session, questioning of either party is not in order. The opening statements should also include the stipulations, which are statements that both parties have agreed on and cannot be changed during the court session.

   - ✓ Opening statement by prosecution *30 minutes*
   - ✓ Opening statement by defense *30 minutes*

6. **Marking of Evidence by the Registrar** *2 hours*

   The Registrar marks each piece of evidence individually. The numbering for marking the evidence of the applicants will be 1, 2, 3 etc. whereas the opposing party's will be A, B, C etc.

7. **Applicant Party Presents its Evidence** *60 minutes*

   Newspaper articles, UN resolutions, reports, maps, pictures, international agreements, treaties etc. can be considered as evidence; anything that helps the advocates justify their standing and gives strength to their case. It is up to the judges however to question the reliability and the strength given to each piece of evidence. During the presentation of the evidence both parties provide to the court information on the source of the evidence, for each one, on the author, and they highlight the parts where they wish to focus the judges' attention on. They do not, however, explain how their evidence helps their case.

Pieces of evidence can be objected by the advocates on the grounds of:

I. Authenticity: If there are concerns that the piece of evidence has been edited by the advocates in a way that benefits their case.

II. Reliability: This objection mainly refers to the author of an article, whether or not this author is biased in regards with the case.

III. Relevance: Whether or not the piece of evidence is relevant to the case discussed.

8. <u>Respondent Party Presents its Evidence</u> *60 minutes*

During the presentation of the evidence of the opposite council, the parties can object the authenticity, reliability, and relevance of the presented piece of evidence. Such objections are marked by the Registrar and used in the weighting process.

9. <u>Weighting of the Evidence by the Judges</u> *2 hours*

At this point, the Advocates are also given the chance to prepare their witnesses who will be examined before the Court. A member of the Secretariat should assemble the requested delegates at the ICJ preparation rooms. It is advisable that the Advocates have prepared the questions for the witnesses prior to the conference, so they can begin the witness-training immediately. We do not want the delegates to lose precious committee time.

10. <u>Introduction of the Witnesses of the Applicant Party</u> *90 minutes*

- ✓ ***Witnesses are sworn in and* witnesses take their *oaths*** (**"***I solemnly declare upon my honor and conscience that I will to speak the truth, the whole truth, and nothing but the truth.***"**)[4]
- ✓ ***Questioning by the Applicant Party***

  This is called Direct Questioning. During the Direct Questioning, the advocates of the party to which the witness belongs are allowed to ask him/her questions, but leading questions are not allowed.

- ✓ ***Cross-examination by Respondent Party***

  Examining the opposition's witness is a process called cross-examination. Leading questions are allowed and encouraged. However, the opposite party can only ask the witness questions that are directly affiliated with the witness's testimony since any irrelevant questions will be overruled.

- ✓ **Follow-up questions by the Applicant Party**

  These are optional, additional questions yet limited in time

- ✓ **Cross-examination of the witnesses by the judges**

  Judges are also encouraged to question the witnesses, aiming to receive information that competes the case.

11. <u>Introduction of the Witnesses for the Respondent Party</u> *90 minutes*

- ✓ *Witnesses are sworn in and* witnesses take their *oath*
- ✓ *Questioning by the Respondent Party*
- ✓ *Cross-examination by Applicant Party*
- ✓ *Follow-up questions by the Respondent Party*
- ✓ *Questions to the witnesses from the judges*

[4] ICSID, Rule 35, (2) (https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc_en-archive/78.htm)

12. Rebuttal Session *40 minutes*

At this phase of the trial, each advocating party will take the floor in order to counter the assertions of each other presented so far. The speech per party shall not exceed the limit of 20 minutes. During this period, the Advocates are also welcomed to present further evidence and add constructive comments up holding their position. The Applicant Party proceeds first and is followed by the Respondent.

13. Judges' Questions to the Advocates *30 minutes*

The Panel of Judges and the Board are encouraged to pose questions to either party upon the whole of the material that has been presented before the court.

14. Presentation of the Closing Statement by the Prosecuting Advocates *30 minutes*

In the Closing Statements, both parties are expected to go over everything that they have presented to the Court that far. They also explain how their evidence support their case, how their witnesses support their standings, and how the opposing council's evidence, witnesses, and standings cannot be proven or are unreliable. Finally, they repeat their prayer for relief.

15. Presentation of the Closing Statement by the Defense Advocates *30 minutes*

16. Judges Deliberation *2 hours*

Judges review the case presented by each side in camera[5] and vote on the verdict. During this phase, security staff shields the door. The use of computers is no longer allowed and all the journalists and guests must leave the room. Nobody should disturb the court during the deliberation and that includes all student officers. The Panel of Judges along with the Board discusses all the points raised by the two parties along with the evidence submitted and the witnesses summoned. The Court agrees upon some main points that will construct the axis of the verdict and will be put to vote.

17. Voting Session *15 minutes*

18. Composition of the Verdict *45 minutes*

The one with the most votes is the "Majority Opinion". This constitutes the Court's ruling and is the judgment that will be read in the Closing Ceremony of the conference.

VI. COMPOSITION AND FORMAT OF THE VERDICT

The majority vote of the justices shall be required for the writing of a verdict.

The verdict shall include the following elements:

a) The date in which the verdict was formed upon.

b) The signatures and the names of the judges that have agreed on the verdict.

c) A short summary of the trial.

d) Stipulations and facts recognized by the Court

e) Final outcome.

[5] In private

VII. SPECIAL POINTS AND MOTIONS

Present the Witness – During the presentation of the case, the advocates must motion to present each witness to the Court. This motion requires the consent of the President to pass.

Objection – An "Objection" is the equivalent of a Point of Order in other committees. Objections may draw attention to procedural mistakes, challenge leading questions to the witnesses, and address the Court when the opposing Counsel is presenting irrelevant, inaccurate, or misleading information. The advocates should not overuse this point since they will disrupt the flow of the Court Session and delay it. This point requires only the judgment of the President.

Objections Include[6]:

- *Hearsay:* questions to the witnesses shall be related to the witness' own experience only. It must be possible for the source of the information to be examined directly during cross-examination. An advocate can object during the examination of one of the opposite party's witnesses, if the question posed by the opposite council inquires from the witness information that he/she received from a third person outside of the court.

  For example, "What did Mr Smith tell you yesterday?"

- *Leading Question*: a query that suggests to the witness how it is to be answered or puts words into the mouth of the witness to be merely repeated in his or her response.

- *Speculation:* this objection shall be raised if a witness tries to predict the result of an answer or possible outcome of an event.

- *Prejudicial:* all assertions of law and facts shall respect the personal integrity of the counsels, justices or officers.

- *Competence:* this objection can be used during the witnesses' testimonies if the advocates of the opposing party ask the witness a question with technical details which he/ she can't assess.

- *Badgering:* during the examination of witnesses, advocates have the responsibility to refrain from intimidating the witness and the implementation of distressing methods.

Extend – Each Counsel may motion once to extend the presentation of the case by 15 minutes. Passage of this motion requires the President or Vice President to grant the motion.

Point of Parliamentary inquiry – If something is unclear to an advocate or a judge, he/she can ask the board for clarification related to the rules of the court.

Motion to approach the Board – This motion is used when an advocate wishes to show something to the Board (e.g. a document or a statement). Only the President or the Vice President can grant the motion.

[6] The definitions of the Objections and Motions mentioned above are from the Legal Dictionary (http://legal-dictionary.thefreedictionary.com)

VIII. ADDITIONAL NOTES

ADVOCATES

- ✓ Communicate with your fellow advocate and act as a team (for example, when making an objection or a point of order, do not both raise your hands and organize which speeches will be made by whom).
- ✓ Keep in touch with the advocates of the opposing party as well, as you will have to agree on the stipulations which play a crucial part in the court session.
- ✓ Prepare extensively and do a thorough research on every piece of evidence in order for it to be accepted.
- ✓ It's advisable not to use your countries' sources as evidence as it may be considered biased.
- ✓ Prepare your witness mentally and provide him/her with the information that is needed. Furthermore, apart from your questions it is advisable to try and predict some of the questions from the cross-examination. Remind your witness they should remain calm and relaxed throughout the whole procedure and that they can deny a question if they do not know the answer. Witnesses shouldn't be too theatrical, (the rules of the courtroom apply to everyone) as it will decrease their credibility.
- ✓ Do not keep your witness too long since they have to return to their committee.
- ✓ Avoid hearsay and leading questions. Making use of them could lead to an objection and it will decrease your credibility. However, during cross-examination it is advisable to make use of leading questions in order to improve your argument (ex. isn't it true that... didn't you previously state that...do you agree that...)
- ✓ You should try to convince the judges and the board of the credibility of your witness and establish that the credibility of the opposing witness is poor.
- ✓ Never take anything personally, never use irony when referring to the opposing party, never be rude and never "hit the opponent below the belt". Always act professionally.
- ✓ Make notes
- ✓ Carefully write your closing arguments as they sum up your position

Judges

- ✓ Never be biased or prejudge a case. Judges are impartial decision-makers in the pursuit of justice. As a judge you shouldn't be aware of the outcome of the case in the real ICJ and you shouldn't know about any of the pieces of evidence before being presented in court. Remember: not one case is black and white. It very much depends on the advocates, the witnesses and of course, the judges. You will notice that you may change your opinion many times during the deliberation.
- ✓ Making notes is crucial since it will be the main factor that will make up your decision. Notes should include:
    a. *Basic points made by the advocates*
    b. *Significant points raised by the judges*
    c. *Quotes from the witness testimonies and their validity*
    d. *Questions for/ of the advocates*
    e. *The issues that are crucial to the case*
    f. *Any objections made*
- ✓ Carefully determine how much weight you should give to a piece of evidence and when reaching the final decision keep in mind that the applicants must meet the Burden of Proof.

- ✓ State your own honest opinion and do not be affected by others, provide an independent and impartial assessment of the facts and how the law applies to those facts.

IX. GLOSSARY OF TERMS COMMONLY USED IN COURT[7]

Term	**Explanation**
Abstract of Judgment	An official copy of the contents of a civil judgment.
Adjudicate	To pass on judicially, to decide, settle, or decree.
Affirm	To ratify, make firm, confirm, establish, reassert. Alternate procedure to swearing under an oath.
Applicant	The Applicant is the state that initiated the court case against the Respondent.
Breach	The breaking or violating of a law, right, or duty, either by commission or omission.
Burden of Proof	The burden of proof is the obligation resting on a party in a trial to produce the evidence that will shift the conclusion away from the default position to one's own position. In other words, the evidence has to be 51% convincing. Only the applicants have to meet the Burden of Proof.
Counterclaim	A claim presented by a defendant in opposition to deduction from the claim of the plaintiff whether or not it arises from the matters in question in plaintiff's action.
Court order	A command or mandatory direction of a judge which is made during a case. Also includes a command of the judge which establishes courtroom or administrative procedures.
Cross-Examination	The examination of a witness upon a trial or hearing, or upon taking a deposition, by the party opposed to the one who put him on the witness stand to testify.
Dissenting Opinion	One or more justices - but less than half of the total number of Justices - who fundamentally disagree with the majority opinion are said to hold a dissenting opinion. There may be multiple dissenting opinions. During the Deliberation and Judgment stage, the Dissenting Justices should each write a short explanation of their position in lieu of a judgment.
Deposition	The testimony of a witness taken upon oral examination, after notice to the adverse party, not in open court, but in pursuance of a notice to take testimony issued by the party wanting the deposition. The adverse party has the right to attend and cross-examine. Testimony is reduced to writing and duly authenticated, and intended to be used in connection with the trial of an action in court. These are used in circuit court.
Direct Examination	The initial questioning of a witness by the party who called the witness.
Eviction	The legal process by which one recovers land or a dwelling from another.
Evidence	All the means by which a matter of fact, the truth of which is submitted for investigation, is established or disproved. In the ACMUN ICJ "Real Evidence" and the witness testimonies are accepted as evidence.

[7] All of the definitions of the terms mentioned are from the Judicial System (http://www.courts.state.va.us/courts/overview/glossary_of_court_terms.html)

Expert Testimony	Another term for witness testimony. Expert testimony refers specifically to testimony by relevant experts to the topic, rather than injured parties, eyewitnesses, etc.
Extend	A motion by a Counsel to grant a 15-minute extension for the presentation of the case or justice questioning, respectively.
Finding/ Verdict	The result of the deliberations of a court.
Hearsay	An advocate's question towards the witness will be considered hearsay if it's an assertive statement or it opts to prove the truth of the matter asserted.
Judgment	A final decision and order of the court.
Motion	A request made to the judge by a litigant or other person connected with the case for a ruling or order.
Objection	A protest or exception made by a party against an action by the opposing party.
Party	An individual person or a legal organization such as a partnership or corporation.
Witness	Testifies to what he has seen, heard or otherwise observed and who is not a party to the action.

BIBLIOGRAPHY

- ✓ *EMUN Rules of Procedure*
- ✓ *HAMUN Rules of Procedure*
- ✓ *THIMUN Rules of Procedure*
- ✓ *ICJ STATUTE*
- ✓ *PAMUN Rules of Procedure*
- ✓ *ACMUN 2013 Rules of Procedure*
- ✓ *Legaldictionary.com*
- ✓ *http://www.cscja-acjcs.ca/role_of_judge-en.asp?l=5*
- ✓ *muntr.org*
- ✓ *http://www.icj-cij.org/homepage/*