

# PROTOCOL FOR THE INTERNATIONAL COURT OF JUSTICE



**The court is formed by:**

- **Agents:** Parties to a case are represented by lawyers known as Agents. Each party, called Agencies, will be represented by three Agents, who are responsible for presenting their State's arguments to the Court.
- **Justices:** The function of the Judges is to decide the final verdict of the disputes brought before the ICJ by States. Judges will take an oath before starting their first hearing as members of the Court.

## **PROCEDURE OF THE COURT**

### **I. Opening of the court**

### **II. Preliminary Issues (Competence of the court)**

- A. Speech 1 (Prosecutors)
- B. Speech 2 (Defense)
- C. Rebuttals (prosecutors and defense)
- D. Deliberation
- E. Sentence of preliminary issues

### **III. Initial Hearings (presentación de hechos)**

#### **A. Facts**

- 1. Demand (prosecutors)
- 2. Objection (defense)
- 3. Deliberation
- 4. Rebuttal (prosecutors and defense)

#### **B. Evidence**

- 1. Presentation of evidence
- 2. Cross examination
- 3. Extraordinary session of questions (justices)
- 4. Deliberation (10 minutes)

#### **C. Witnesses and experts**

- 1. Presentation of witness/expert

2. Cross examination
3. Extraordinary session of questions (justices)
4. Deliberation (10 minutes)

**IV. Legal argumentation**

- A. Prosecutor
- B. Defense
- C. Deliberation

**V. Final hearing**

- A. Prosecutor
- B. Defense

**VI. Deliberation (moderated caucus)**

- A. Facts, evidence and legal argumentation

**VII. Sentence**

## **OPENING OF THE COURT**

- I. The president will open the session and present the Justices and Bureau.
- II. The court will proceed with a motion of retirement in order proceed with the oath of the justices.

**Justices' oath:** "I, justice [surname] solemnly declare that I will perform and exercise my powers of duties as justice of the International Court of Justice, honorable, faithful, impartial and ethically"

- III.-After the oaths, both agencies are asked to return to the room.

## **PRELIMINARY ISSUE**

- I.- Both agencies will present their arguments regarding the competence of the Court.
- II. The moderator will recognize the Prosecution (Agency 1) and then the Defense (Agency 2) to present their arguments in front of the judges. They must last between two to three minutes.
- III. Once both Agencies have presented their arguments, Judges are in order to open a session of extraordinary questions to both Agencies at the same time. Questions may only be asked if Judges desire to clarify any issue that may be confusing or not well specified in the presentation of arguments of the Preliminary Issues.
- IV. After the Agents have presented their first arguments, both will establish a point of personal privilege with the purpose of presenting the list of evidence that they wish to present at court. The agents will be asked to leave the room and the Justices will be called to deliver a preliminary opinion of the case, in which they should mention

and establish the competence of the court. After establishing the competence of the court the presidency will announce the evidences that are considered admissible for the case. This decision may be appeal by any judge.This is the first debate (MODERATED CAUCUS). After such the court shall reach a Sentence of preliminary issues, which establishes the court jurisdiction over the case.

### **INITIAL HEARINGS**

I. The moderator will recognize the Prosecution and then the Defense to present their case in front of the court. Initial Hearings must last between three to five minutes.

#### **Example**

**MODERATOR:** The Agency of \_\_\_\_\_ is now recognized to present their stand of this case, speaking in front of this Court for no less than three minutes whereas no longer than five.

**AGENTS:** *While presenting the Initial Hearing, they should include an interpretation of the facts that lead to the dispute; arguments in their favor; and conclude with a list of petitions made to the Court.*

II. Once both Agencies have presented their case, Judges are in order to open a session of extraordinary questions to both Agencies at the same time. Questions may only be asked if Judges desire to clarify any issue that may be confusing or poorly specified in the Initial Hearing.

III. After the Agents have presented their first arguments, they will be asked to leave the room and the Justices will be called to deliver a preliminary opinion of the case, in which they should mention the points they consider must be discussed during the rest of the proceedings.

**IV.** Once the Justices finish delivering their preliminary opinions, both Agencies are asked back into the room and the Prosecution (Agency 1) will be recognized to present a rebuttal to the Defense's (Agency 2) arguments. It should be brief, clear and not aggressive.

**Example**

**AGENTS:** The Agency of \_\_\_\_\_ mentioned in their presentation of the case that \_\_\_\_\_. As a counterpart, we want to state that\_\_\_\_\_.

OR We would like to know what they base their statements/petitions/allegations on\_\_\_\_\_, which is unviable because\_\_\_\_\_.

OR We encourage them to reconsider\_\_\_\_\_.

Judges may require an extraordinary session of questions to the Agents, only if any issue needs clarification.

**V.** After the rebuttal, the Defense (Agency 2) will be allowed and encouraged to also refute the arguments of the Prosecution's (Agency 1) rebuttal. An extraordinary session of unlimited questions from the Justices will be in order.

**VI.** Once the rebuttals have concluded, Justices may then move to a retirement to review these hearings and both Agencies must retire. MODERATED CAUCUS.

**VII.** Once the previous moderated caucus has concluded, both agencies will return to the room. The Justices will then establish whether or not the court is competent.

**EVIDENCE**

After the justices have reviewed the Initial Hearings in a Moderated Caucus, the Agencies must start presenting their arguments for the case. During the following hearings, the presentation of arguments, responses to the counter-part's arguments, evidence or witnesses may be presented. During this part of proceedings objections are allowed.

### **PRESENTATION OF ARGUMENTS**

*Brief premises that the Agents may use, without the need of evidence or a witness, to talk the judges into their favor. They may be references to laws; diplomatic matters; appealing to empathy.*

### **PRESENTATION OF EVIDENCE**

*Presentation of evidence must be brief and concise. Agents must clearly explain the point and relevance of the piece. It may be of any nature: physical; videographic; photographic; phonographic; printed documents. The opposite Agency and the Judges must proceed with a session of extraordinary questions. After presenting a piece of evidence, Justices may then ask both Agencies to retire in order to examine the evidence.*

### **PRESENTATION OF A WITNESS**

*Just as the presentation of evidence, the presentation of a witness must be brief and concise. Agents must clearly explain who their witness is and what their relevance is to the case. Then, every witness must take an oath before answering any question. The testimony of a witness should not last more than 5 minutes. After their testimony, a cross-examination (questions to discredit or undercut testimony already given) by the counter-part must be allowed. Judges may require an extraordinary session of questions to the witness. After a witness has given its testimony, Justices may move to the retirement of the Agencies to review it.*

### **Example**

**MODERATOR:** Agency of \_\_\_\_\_, you are now recognized to introduce your (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.) witness to the court. Please be brief.

**AGENTS:** Your excellences, as our (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.), we introduce (Name and title of the witness: Dr. John Hastings; Mrs. Joanna Smith) Brief explanation of the witness' relevance to the case.

**MODERATOR:** Thank you, Agents. (Addressing the witness) Mr./Mrs./Miss/Dr., please place your right hand on your heart and raise your left hand. Do you solemnly swear or affirm that you will tell the truth, the whole truth, and nothing but the truth, under pains and penalties of perjury?

**Crowd:** Say I do, I do, I do, I do...

**WITNESS:** I do.

**MODERATOR:** You may introduce yourself briefly and tell us why you are here.

**WITNESS:** My name is \_\_\_\_\_. I am \_\_\_\_\_ (occupation). I have come on my own will to give my testimony regarding \_\_\_\_\_.

**MODERATOR:** Thank you. (To the agents) You may now proceed with the testimony. I remind you that you have (time considered suitable by the Court, usually five minutes are allowed).

**AGENTS:** *They ask the series of questions that they must have prepared in advance for the witness to answer. Agents must take into account how they prepare their witnesses due to the possibility of being objected. After the witness is done, and if there is any time left, Agents*



*may make a brief conclusion. As you can see, Mr. Maurner's testimony tells us that \_\_\_\_\_.*

**MODERATOR:** Thank you Agents. Now, the Agency of \_\_\_\_\_ may cross-examine the witness. I remind you that you have (time considered suitable by the court). *The agencies may or may not want to cross-examine the witness. This will depend on the convenience that it has for their case. If the staff members consider it suitable, the agencies WILL HAVE to do so. However, Justices are obliged to open a session of extraordinary questions to the witness. Finally, Agents must leave the room again.*

I.-The court will follow the same procedure in both evidence and witness.

II. The moderator will recognize the Prosecution (Agency 1) to present their first witness or evidence. Agencies can choose what to present first.

III.-After the presentation of the evidence the defense may start their cross-examination. In which they are allowed to ask questions to the prosecutors regarding the evidence or witness.

IV.- Once the cross-examination has finished the justice are allowed to start an extraordinary session of questions regarding the evidence or the witness.

V.- After the extraordinary session of questions a motion of retirement will be raised by any justice, asking the agencies to leave the room.

VI.-The justice will start to deliberate in a moderated caucus in order to discuss the admissibility of the witness or evidence.

VII. Once the previous Moderated Caucus has concluded, the justices will enter into a voting procedure, in which they shall vote in favor or against the evidence or witness. After the voting procedure both agencies will return to the room.

### **LEGAL ARGUMENTS**

I.- Both agencies will present their legal arguments regarding the legal grounds that sustain their case.

II. The moderator will recognize the Prosecution (Agency 1) and then the Defense (Agency 2) to present their arguments in front of the judges. They must last between two to three minutes.

III. Once both Agencies have presented their arguments, Judges are in order to open a session of extraordinary questions to both Agencies at the same time. Questions may only be asked if Judges desire to clarify any issue that may be confusing or not well specified in the presentation of arguments of the Preliminary Issues.

IV. After the Agents have presented their arguments, they will be asked to leave the room and the Justices will be called to deliver regarding the legal grounds of the case (MODERATED CAUCUS).

### **FINAL ARGUMENTS**

I. During the Final Arguments, the Agencies will have a final opportunity to explain whichever point they consider was left out during the earlier hearings or that supports the ones they previously established.

II. The Court shall call first the Prosecution (Agency 1), then the Defense (Agency 2), to deliver their Final Argument, without interruptions, in which they can address any final points or sum up their cases. There is *no time set for Final Arguments*, but

Agencies must observe courtesy in the use of their time. Equal conditions will be allowed for both parties.

### **Example**

**MODERATOR:** The Agency of \_\_\_\_\_ is now recognized to present their final arguments to this case. Agents, I exhort you to be brief and concise.

**AGENTS:** As to what has been said throughout this trial, we would like to state that this Agency considers that \_\_\_\_\_. We expect the Judges to consider that \_\_\_\_\_ in order for them to reach a reasonable verdict, based on the evidence and facts here presented.

### **FINAL HEARING**

I.- Both agencies will present their final arguments regarding the competence of the Court. In this part of the proceedings objections are forbidden.

### **FINAL DELIBERATION**

After both Agencies have made their final arguments , we will proceed to their retirement. During the retirement, Justices will draft and vote on the Final Verdict.

### **VERDICT**

- i. The Final Verdict must include the competence of the court.
- ii. A brief explanation of the facts presented by the Agencies.
- iii. Considering ( legal grounds).

**EXAMPLE:** Considering the Vienna Convention's 26th Article, second paragraph, Article 29th, third paragraph...

- iv. Reference

**EXAMPLE:** The Vienna Convention on the law of treaties of 23 May 1969.

- v. Closing statements

**EXAMPLE:** By inanimate decision, Germany has been found internationally responsible for violating the Vienna Convention and is sentenced...

II. Justices must not order anything not asked by any of the Agencies in their petitions, nor exceed the Court's jurisdiction.

III. Staff will help the Justices in the conformation of the petitions to be decided and the drafting procedure.

## VOTING

I. Once the Verdict is fully drafted, and particular votes are annexed, the Court will be called to begin a voting procedure to approve the final document. The vote expresses the satisfaction of the justices as to the final form of the judgment. Each justice will have one vote. In the event of a tie, the **President** shall have the deciding vote. The vote of half of the Justices present, plus one, will be considered a majority (meaning, for example, if there are 8 Justices present, 5 will be considered majority).

II. Substantive votes shall be taken by roll call. The President shall call the roll in alphabetical order. The roll call shall consist of only one round in which the Justices may vote *yes*, *no* or *abstention*.

III. After the President has announced the beginning of voting, no interruption shall be allowed. Anyone disrupting the voting will be ordered to retire the room by the President.

IV. Once a verdict is approved, the Court declares it as "passed". The final public hearing is called, and Agents return to the room to stand judgment, who must remain standing up while the judgment is being delivered.

## MOTIONS

There exist four types of motions:

**(i) Point of Order.** It can interrupt the debate. It is used when a part (Agent or Judge) has not complied with the Rules of Procedure. Whenever there is no justification to this point, the Bureau will immediately over-rule it.

**(ii) Point of Personal Privilege.** It can interrupt the debate. It is used when a part or a Judge has a personal need. It is recommended to notice the Bureau of a personal need with a paper sent by an usher instead of using this motion. Use this motion for extremely necessary cases.

**(iii) Point of Parliamentary Inquiry.** A paper must be sent to the Chair. Its object is to make questions about the Rules of Procedure.

**(iv) Motion of Procedure.**

**Postponement of Debate:** A Member of the Court may postpone debate when he/she considers that debate should not continue until some evidence or witness is presented. In order to proceed with it, 3/4 of the present Judges must be in agreement.

**Retirement:** During debate, Justices must purpose this motion in order to allow both Agencies to leave the room if the motion passes.

**Closing of Debate:** A motion to close debate will only be in order after the Court has dictated a Judgment, or when evidence was not enough to establish a case.

**Dismissal:** When a piece of evidence or a witness has passed, a Judge or a part may move to a dismissal of that evidence. This motion requires an explanation on why should the evidence or witness be dismissed. The motion requires a 2/3 majority to pass. If the motion passes, the evidence or witness shall be considered as a simple argument and not as evidence when arriving to a Judgment.

**OBJECTIONS:** The objections are only used when witnesses and evidences are presented. The following are valid objections:

**(i)Hearsay.** A hearsay objection may be raised when a speaker refers to a fact that they did not see. These statements must be considered simple arguments and not evidence.

**(ii)Competence.** A competency objection may be raised when a speaker refers to a technical fact that he is not professionally qualified to give. This advice must be considered as simple arguments and not as evidence.

**(iii)Prejudicial.** May be raised if any statement is presented in such a way that the personal integrity of an Officer or judge is being damaged.

**(iv)Irrelevant.** It may be raised when an assertion is irrelevant to the case on trial.

**(v)Speculation.** May be raised when an assertion is of speculative nature.

**(vi)Leading.** May be raised when an Agent, when questioning a witness, puts forth questions that may condition the witness' answer to a simple and desired one.

## **PERTINENT VOCABULARY**

-Your excellences

-Your honors

-Members of the court

-Justices and Bureau

-We introduce

-We now present

-We believe

-We would like to state

-We exhort you

-We encourage you