CHEMUN

INTERNATIONAL COURT OF JUSTICE (ICJ) GUIDEBOOK

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INTRODUCTION

International Court of Justice

Established by the UN charter in June 1945, the International Court of Justice is the primary judicial organ for the UN. The ICJ exclusively handles international disputes between nations that cannot otherwise be resolved.

General Rules

- Be on time for every session.
- Advocates must stand when making/responding to objections, asking/answering questions, and when making speeches to the judges.
- With the exception of notes to the President, Vice President, or the Panel, or from the President to the faculty advisor, Admin/Security are not permitted to pass notes during proceedings.
- Use of electronic devices is solely permitted when accessing relevant court documents.
- The use of electronic recording (audio or visual) devices by the members of the model ICJ is prohibited.
- Maintain decorum at all times.
- Address other members of the court with dignity and respect.

CHEMUN MODEL ICJ ROLES

The 4 roles in the CHEMUN Model ICJ and the number of positions or people assigned to the roles are:

1. President - one (1) position
2. Vice President - one (1) position
3. Judges - ten (10) positions
4. Advocates - four (4) positions, divided into 2 (2) pairs.

President

The role of the President is similar to that of a chairperson in MUN. Serving as the head of the panel, she/he presides over all meetings of the court. The President also ensures that all pre-conference deadlines are met.

Vice President

The role of the Vice President is to support the President in their duties. They have the same responsibilities are the President, as part of the panel, and serve in the role of the President should the President need to exit the Court.

Advocate

Advocates, or lawyers, represent either the applicant or the respondent. Each team will have two (2) advocates representing the country.

Applicant: A nation files an application with the ICJ in order to institute a case between itself and another nation, or other nations, to settle a dispute. This nation is referred to as the applicant party.

Respondent: The respondent party is the party responsible for defending itself from the claim of the applicant party.

Judge

Judges play an active role in the debate process as the determinants of the case in question as part of the panel. Judges must actively involve themselves in debate procedures, taking notes and asking questions. Towards the conclusion of the case, the judges must, jointly with the President, provide a verdict or final resolution to the issue. Please refer to **"Court Proceedings"** for information on the types of judges' opinions.

Please remember the following:

- Judges must remember to remain impartial and unbiased.
- Judges must take notes to mimic authentic ICJ procedure and prepare questions for the advocates based on their evidence packets.
- Judges take roles as "finders of fact"
    - When an advocate objects to a certain piece of evidence, the advocate is often objecting to the admissibility of the evidence. Judges should either sustain or overrule the objection against the evidence based on its authenticity, relevance, reliability, and credibility.
    - However, the President has the ability to overrule the judges' ruling **ONLY** if the judges have misapplied a model ICJ rule of procedure. The President may **NOT** overrule the judges on evidentiary issues because the President disagrees with the judges' ruling.
- Judges decide the case by analyzing the claims presented and applying the evidence and law to the claims.
    - As outlined below, judges do weigh the evidence during the proceedings. By weighing the evidence, judges determine the authenticity, credibility, and relevance of each piece of evidence. It is important to remember that once a piece of evidence has been admitted, it can be used to support an argument from **EITHER** party, not simply the party that introduced the evidence. Advocates need to remember this when questioning witnesses, responding to questions from opposing counsel and the judges, and when making their final arguments to the judges. Judges need to remember this when deciding the case.
- While judges are not allowed to conduct other research prior to the conference, judges will be assigned pieces of evidence to review prior to the start of the conference. Reviewing the evidence prior to the conference should allow for a deeper understanding of the meaning of the evidence during the conference and shorten the amount of time spent weighing the evidence during the conference. A simple information chart will be generated for the judges' use during the conference.

Once all evidence is presented in court during the conference, the evidence will then be weighed by the judges. Judges will make an independent determination of the evidence's weight. Simply because a piece of evidence is accepted by the opposing party does **not** mean the judges have to give it a 5 on the Model ICJ scale if the judges determine that the evidence is unreliable. Please refer to **"Court Proceedings"** for the Model ICJ scale.

In CHEMUN ICJ, one case will be entertained per conference. When members are selected to participate in CHEMUN ICJ, they are selected as either advocates or judges. All members must be well-versed in CHEMUN ICJ procedure in order to enable the most successful court. A case will be assigned an Applicant team and a Respondent team prior to the conference; however, the judges will only be given the necessary materials from the evidence packet and a set of case briefings from the President to complete their duties as judges.

MODES OF ADDRESS IN COURT

While Model ICJ allows for the use of first-person pronouns, there are specific modes of address used in Model ICJ. Judges may be addressed as "Your Honor", "Judge (Surname)", or simply "Judge". The President may be addressed as "President (Surname)". The Vice President may be addressed as "Vice President (Surname). Advocates may be addressed as "Counsel" or "Advocate (Surname)". Parties may be referred to by either their position—applicant or respondent—or the title of their country. Witnesses are simply referred to with their appropriate title and surname.

DOCUMENTS

All model ICJ documents should be submitted prior to the start of the conference according to the established timeline. During the conference, these documents will be utilized for the purpose of argumentative support and provide the evidentiary basis upon which the case will be decided. The types of documents used at the CHEMUN Model ICJ are:

Stipulations

The stipulations should be the first set of documents submitted by both parties in the model ICJ on the day preceding the conference. Stipulations are a document of general facts to which both parties have agreed prior to the start of the conference. The stipulations will be listed in bullet points and can only consist of facts mutually understood by both parties. The facts written on this document are deemed unnecessary to be debated in the court. For CHEMUN ICJ, each advocate team is allowed a maximum of **10** stipulations. A single list of up to **20** stipulations in total for both parties should be jointly submitted to the president prior to the conference.

Memorandum

This document is to be submitted by both parties prior to the start of the conference. The memorandum serves to outline why the case is being brought before the model ICJ, why it is within the model ICJ's jurisdiction, the arguments that the advocates plan to make in court, and what they request should the court find that their argument carries more weight. There are two types of arguments in ICJ. One is the substantive argument addressing the issue raised by the Applicants. The second type is the jurisdictional argument on the issue. While Applicants may argue why the case should belong before ICJ, respondents may contest that the case is not under the jurisdiction of ICJ.

The paper must follow the order of:

1. Statement of Jurisdiction - An explanation of the laws explaining why the ICJ has jurisdiction over the case.
2. Statement of Laws- An explanation of laws that support your parties' stance on the dispute.
3. Statement of Facts- Statement of recent events that support your party's stance on the dispute.
4. Arguments- The arguments that your advocate team intends to present in court.
5. Summary and Prayer of Relief- Your parties' preferred solution and outcome of the case.

Evidence Packet and List

A list of all evidence that each party plans to support their case must be provided prior to the conference, following the CHEMUN ICJ Evidence Packet Template, which has been emailed to the advocates. The information that needs to be provided for each piece of evidence includes the following:

1. Title
2. Author
3. Date
4. URL (if the source is a Web source)
5. Relevant Points and Quotations

Evidence without proper citation will be automatically stricken. Evidence must be presented in the appropriate CHEMUN ICJ Evidence Packet format, as this is the only appropriate form for documents at CHEMUN ICJ; audio or visual files must be shared with the President prior to the start of the conference. For CHEMUN ICJ, a maximum of 10 pieces of evidence are allowed for each advocate team, and no piece of evidence may be over three (3) single-spaced pages long. Please be aware that the UN Charter and the ICJ Statute are **NOT** pieces of evidence. They are the law that allows the model ICJ to function, a nd citing them as pieces of evidence is not necessary.

Please provide one printed copy of your evidence packet for the court. This copy should be given to the registrar at the start of the conference. You are free to bring additional printed copies, though you are encouraged to use only electronic copies during the conference, **but** only the copy given to the President may be used to show a witness, etc, during the conference.

Witness List

The witness list establishes who each side wishes to call as witnesses and their role to be played as a witness. Each team must call between two (2) and three (3) witnesses to trial, to support their case. The list should include a reference to any piece of evidence about which the witness will be questioned by the party calling the witness. In CHEMUN ICJ, the witnesses will be represented by other delegates from CHEMUN XIX. Should the advocate team decide on the individuals who will represent their witnesses, they are expected to inform the President prior to the conference. The testimony of witnesses must be based on reality and be present at the moment of the case, and evidence must be available to support the claims made by the witnesses. Witnesses must also maintain decorum and may not seek to disrupt the court with misinformation or inappropriate behaviour.

The witness list also includes background information on the witness and the expected nature of the witness's testimony. This information will be shared with opposing counsel well in advance of the conference so that opposing counsel may prepare cross-examination questions.

Witnesses will answer questions consistent with their oath to tell the truth. Advocates will prepare questions prior to the start of the conference. Advocates will go over those questions with the witness before the conference so the witness is prepared to answer. Additionally, the opposing counsel will have the opportunity to cross-examine all witnesses, asking questions supporting their argument. It is the responsibility of the counsel calling the witness to prepare them ahead of time, as witnesses are not allowed to have notes of any kind while testifying.

- Witnesses, during both direct and cross-examination, may read from a piece of evidence as part of their testimony. The party questioning the witness must ask the President for permission, and any piece of evidence must be shown to opposing counsel, who has the right to object as appropriate.
- Witnesses will be questioned by the judges after both advocate teams have an opportunity to examine the witness.
- The testimony of the witness will be based upon the witness's role in court, the evidence presented in court, and the obligation to tell the truth.
- All advocate teams **MUST** prepare their witnesses for both direct and cross-examination prior to the start of the conference.

COURT PROCEEDINGS

The outline of the court proceedings:

1. Introductions/Swearing In
2. Merging Stipulations
3. Opening Statements (20 min/ advocate team)
4. Reading of Memorandums
5. Applicant's presentation of evidence
6. Applicant's weighing of evidence
7. Respondent's presentation of evidence
8. Respondent's weighing of evidence
9. Applicant witnesses—direct and cross-examination and questions from the judges (time limit and number of rounds to be determined by the President at the conference).
10. Weighing of Applicant's witness
11. Respondent witnesses—direct and cross-examination and questions from the judges (time limit and number of rounds to be determined by the President at the conference).
12. Weighing of Respondent's witness
13. Advocates' questions of each other
14. Rebuttals
15. Judges' questions of the advocates
16. Closing arguments (15 min/ advocate team)
17. Judges' Deliberation
18. Judgment

Introductions

The President will conduct a quick ice-breaker on the day prior to the start of the court proceedings in order to allow for productive trials.

Stipulations

Once the introductions are concluded, the President will begin proceedings and ask the applicant party to read the joint stipulations for the court. These stipulations must only include the facts that both counsels have mutually agreed upon, as each stipulation is indisputable and will not be argued in the court.

Swearing In

After merging the stipulations, the court officially opens. Before moving into the debates, the President, Vice President, and judges must affirm to state the truth and uphold the laws. Each member will administer the following oath:

"I solemnly declare that I will perform my duties and exercise my powers as judge honourably, faithfully, impartially and conscientiously."

Opening Statements

A twenty (20) minute time limit will be given to each advocate team to present their opening statement to the court. This time may be split between different members of an advocate team as they see fit. Opening statements should outline the general arguments of each party. Opening statements may refer to the evidence that will be presented, but advocates may **not** argue how the evidence supports a party's position.

Presentation and Marking of Evidence

This phase of the procedure will be dedicated to presenting the evidence of each party, one at a time. Albeit time-consuming, the presentation of evidence is the best way to ensure that all members of the court fully acknowledge the meaning of each and every piece of evidence.

The party presenting their evidence list will start by reciting the title, author, medium, and date of the evidence, as well as a brief summary of the piece of evidence and its significance

in relation to the question. After each piece of evidence has been presented, the opposing party will either “accept” that piece of evidence or “object” on the ground of either authenticity or relevance. In the case of an objection, the opposing party has to say:

“I object on the grounds of (1) authenticity or (2) relevance”.

In CHEMUN ICJ, only objections based on authenticity or relevance will be taken into account.

All of the objections will be recorded accordingly and will be taken into account during deliberation. The registrar will be responsible for keeping track of both parties' evidence packets and will be responsible for recording any objections or acceptance of the evidence.

Weighing of Evidence

After the presentation of evidence, the court will go into a closed session in which advocates will leave the room. Single pieces of evidence will be distributed to judges. The judge assigned to evaluate the evidence prior to the start of the conference will provide a brief summary of the evidence for the other judges. This summary should include the judges' concerns about the evidence as well as the opposing party's stance on the admission of the evidence. This summary should also include the weight they feel the evidence should carry to the judging panel. The evidence will be rated on a 1-5 scale on the following criteria:

- Relevance
- Authenticity
- Reliability
- Bias

A note on the use of this scale:
Every piece of evidence offered by any party will have some bias; if it did not favor a party, it would not be offered by that party. Therefore, judges should be careful about disfavoring a piece of evidence simply on the basis of bias. Judges should determine the weight of the piece of evidence holistically, taking into consideration **ALL** of the factors listed above.

Witness Examination

Each team of advocates will complete the Witness List as detailed above prior to the start of the conference. Once at the conference, the applicant will call their first witness; the witness

will be examined in the manner described below. After the applicant's first witness has testified in the manner described below, the respondent will call their first witness. In this manner, the parties will alternate until all witness testimonies are completed. A witness summoned to the Court must remain outside until invited to enter. As each witness is called to give evidence, the President will administer the following oath:

"Do you solemnly affirm that the evidence you are about to give shall be the whole truth as best as you know it?"

After which, the witness must respond:

"I do."

The witness examination begins with direct examination, during which the party that called the witness will first ask their questions. The witness must answer all questions to the best of their ability.

Direct examination is followed by cross-examination, during which a witness is questioned by advocates of the opposing party, and then by judges. Advocates must therefore prepare their witnesses for cross-examination as well as any questions asked by members of the Panel. The time limits for questioning of witnesses will be set by the President during the conference based on the amount of available time. The President will also determine how many rounds of questioning to allow.

An advocate may interrupt a speaker for the purpose of objecting. However, advocates are not required to make other objections and may, in fact, opt not to. The list of appropriate objections is included at the end of this guidebook.
When advocates have finished examining a witness, judges will be given the opportunity to question the witness. The amount of time allowed for judges' questioning, as well as the number of rounds, will be determined by the President during the conference based on the amount of available time.

Note that the "leading question" objection may only be made during direct examination and cross-examination. Leading questions are appropriate and not objectionable during questioning by the judges.

Advocates' Questioning

After all witnesses have been called and before closing statements, advocates will have an opportunity to ask each other questions. The President will determine the time limit of each

round of questioning. Advocate questioning will begin with questions from the applicants for the respondents. At the conclusion of the applicants' questions, the respondents will then ask questions of the applicants. The number of rounds of questions will be determined by the President during the conference based on the amount of available time.

Rebuttals

During rebuttals, advocates will have the opportunity to refute the arguments made by the opposition in ten (10) minute speeches. The applicant party will start, and the advocate teams may divide their time as they see fit.

Judges' Questioning

After the advocates' questioning and rebuttals, judges will question the advocates. The time limit for judges' questioning will be determined by the President during the conference based on the amount of available time.

Closing Argument

Lastly, each advocate team will be allotted fifteen (15) minutes to give a closing statement. As with opening statements, the time allotted for closing arguments may be divided between different members of the advocate team as they see fit. Advocates are to be reminded that their evidence includes the testimony of all witnesses who appeared before the court.

Unlike opening statements, closing arguments are just that—arguments. Advocates should use evidence to support their position. The opposing counsel may not object to the contents of a closing argument. Advocates should approach closing arguments as they would an analytical paper—make a claim, support that claim with evidence, explain how the evidence supports the argument, and state why their case is more valid in the ICJ.

Judges’ Deliberation

This is a closed session, open only to the President and judges; advocates and witnesses are excluded. Judges will discuss all aspects of the case, including each side’s arguments and the respective reliability and supportiveness of evidence, as well as the requests listed in the summary/ prayer of relief portion of the memorandum. Arguments that each side has made will be listed out for the panel to reference. Discussion will be facilitated and led by the President.

In ICJ cases, the burden of proof is on the applicant party. In order for judges to rule in favor of the applicant, the applicant must persuade the court that its position is persuasive of at least a simple majority (50.001%). ***Caveats***: Often, ICJ cases hinge on the issue of jurisdiction—does the case even belong before the ICJ? When that is the case, during deliberations, the judges will need to determine whether or not the applicant proved that the case belonged before the ICJ. If the judges find that the applicant failed to meet the burden of proof as to that issue, then the judges **may not** decide the case on its merits but must issue an opinion based solely on the jurisdictional issue.

Taking this into account, each judge will then decide which party they will rule in favor of and for what reasons. These reasons will be in the form of the arguments that the court has previously listed out. Judges will then write their verdict/ judgment on the dispute, collaborating with other judges who have reached the same verdict for the same reasons.

Judgment

Ending the simulation, a verdict will be written out by the Judges, outlining the Majority Opinion and the solution to the dispute, as well as the Minority Opinions. Judgments may take the following forms:

- Majority Opinion
- Separate but concurring (Rules in favor of the same party as the majority but for different reasons)
- Dissenting Opinion (The majority opinion of the judges who rule in favor of the dissenting party)
- Separate but dissenting (Rules in favor of the same party as the dissenting majority but for different reasons)

OBJECTIONS

Below is the list of objections that CHEMUN ICJ will be entertaining. Please print this page out and have it on hand during the proceedings. In most cases, the President of the court will decide whether to sustain or overrule these objections, based on the rules of Model ICJ.

Ambiguous/Vague	When a statement or question is unclear, unspecific, and requires explanation and facts.
Answer Exceeds	When an answer to a question exceeds the concern and scope of the question itself.
Argumentative	When questions do not yield facts.
Asked and Answered	When the witness is asked and answers a question, the witness cannot be asked that same question again by the same person. If the person questioning the witness finds information that contradicts the witness's answers, they impeach the witness, and a new question is asked regarding the contradictory evidence found.
Assumes facts not in Evidence	Witnesses have to testify to facts and evidence included in the evidence packet and already introduced in court.
Badgering the Witness	When questioners are quarrelling with, provoking, or harassing the witnesses on the stand.
Calls for a Conclusion	When questions ask for a conclusion and not facts.
Compound Question	When the question is made up of two parts.
Cumulative	When a piece of information has been proven, additional proof would be considered unnecessary and cumulative.
Hearsay	When information is stated by a third party, outside the court's presence.
Incorrect	When a team states false information that can be proven untrue and incorrect.

Lack of foundation	When a question or a piece of information is asked or stated with no relevant timeframe, relevance, or importance to the arguments/case discussed at hand.
Leading Question	When a question on direct examination is asked, it suggests what exactly the witness is supposed to answer. This objection is **ONLY** appropriate during direct examination. **Leading questions are appropriate during cross-examination and questioning by the judges.**
Non-responsive	When an answer doesn't relate to the question asked.
Relevancy	When a question is irrelevant or is questioned for its relevance, along with the testimony presented to the court.
Speculation	When a question calls for a speculative answer, or when the answer is speculative.
Witness not competent	When the witness's knowledge is minimal and lacking, or when the witness is unable to provide competent testimony.