



Arizona Model United Nations 64

International Court of Justice

Background Guide

Chair Introduction

Hello! My name is Adam Stevenson (Adam Riley) and I am the chair for the International Court of Justice for the Arizona Model United Nations 64 conference. I am a senior at the University of Arizona studying political science and law. I got into AZMUN in the fall semester of my sophomore year, and it has been such a rewarding experience so far! I can say with confidence that this organization has bolstered and improved my ability to problem solve, engage in discourse with people of different backgrounds who hold different ideas, and it has improved my confidence most importantly. From my perspective, the greatest part about not just AZMUN but Model UN as an idea, each and every person will benefit and learn something from attending and experiencing no matter what he/she wishes to study. I sincerely hope that you all learn something valuable from our experience in ICJ & Model UN, and I'm excited to see how the skills you learn will create a bright path for you moving forward! Please feel free to contact me with any questions prior to the start of the conference at:

Committee Introduction & Purview

Within the United Nations, there will be and have been scenarios and situations where member states will make claims or accusations towards fellow member states of violating international law, and the questions at hand will go in a process of litigation. In order to process the facts and issues in a legal, professional order, the United Nations needs a body to fulfill this one goal. The body responsible for hearing arguments and moderating this litigation is the International Court of Justice.

The International Court of Justice, also known as ICJ, operates as a quasi-judicial body within the United Nations. Its primary function and goal is to settle legal disputes and conflicts between party states. Its history can be traced back to the 1920s after the founding and establishment of the League of Nations. The League of Nations voted to establish a judicial body called the Permanent Court of International Justice, or PCIJ. The PCIJ was an inadequate body for handling conflict due to it not being entirely aligned with the League of Nations as well as the outbreak of World War II. After the war ended and the United Nations was established, party states wanted to build a more effective judicial body with the purpose of attaining world peace even in legal conflict. They also wanted this system to be more effective than the PCIJ. In 1946, the

International Court of Justice was formally established as a way to achieve this collective mission by party states.

The ICJ **DOES NOT** operate in the same fashion as a UN assembly with standard rules. This is an important detail and every aspect of the institution should be understood before entering deliberations. Those who serve on the ICJ are **NOT** delegates, but rather they are judges or justices. The ICJ consists of 15 judges who serve nine-year terms. These judges are elected by the UN General Assembly and the Security Council to promote geographical and political diversity. Throughout the proceedings, similar to a moderated debate in a UN general assembly, parties (usually two UN-member states) input arguments and legal documents and take questions from the judges. The parties will be represented by **advocates**, who will be presenting their state's claims in front of the court. Instead of a traditional UN assembly, the ICJ relies on international law and treaties to make informed decisions, or judgments, about each case. It is strongly encouraged to familiarize yourself with the laws being questioned as we go through each case during the conference. During the justices' deliberation, which is after the closing Q&A, the judges make their verdict (or decision) based on a majority opinion. The verdict can be split into three sections depending on the justices feelings about the case. Those who hold the same opinion & rationale will be the **majority opinion**. Those who have the same opinion but for different reasons are the **concurring opinions**. Finally, those who disagree entirely are the **dissenting opinion**. If the opinion is not unanimous, a dissenting opinion must be provided by the judge (s) who disagreed with the majority opinion. There is a specific schedule that outlines every event that takes place during the ICJ proceedings, and it will be posted in the coming days as we approach the conference. **Additionally, it is also important to keep in mind that while some of these cases have already been settled in the ICJ, for the sake of the simulation, please pretend that they aren't.**

The International Court of Justice has special motions that are unique and are not included in other assemblies. These motions are exclusive to ICJ and cannot be used in other committees, although there are some committees that have their own special motions that may share similarities. These motions can be defined below:

- **Roundtable Discussion**: Each justice will be given the opportunity to speak as the Chair runs down the list of justices in alphabetical order. The limits of the discussion will be set by the justice making the motion. This motion requires a second, is debatable, and requires a simple majority to pass. **All motions in ICJ will be conducted by roll-call vote.**
- **Invite Parties to Dispute**: This motion shall be used after the delivery of the arguments by the advocates. In the event that a justice needs a clarification or a set of question(s) answered by an advocate, they can use this motion to call the advocates back for deliberation. The limits of the discussion will be set by the justice making the motion. This motion requires a second, is debatable, and requires a $\frac{2}{3}$ majority to pass.

Please be aware that the guiding questions serve merely as a starting point for research and preparation and are not intended to limit preparation or discussion. Furthermore, this document will not cover the judgements made in these cases, but will provide an overview of the facts and events that led to the case being filed. The delegates of this body should be prepared to have a productive and necessary discussion surrounding the following topics:

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

The case of *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)* was instituted by **Somalia** against **Kenya** before the **International Court of Justice** in August 2014. Somalia requested the Court to delimit the maritime boundary between the two states in the Indian Ocean, arguing that no legally binding maritime boundary had been agreed upon and that an unresolved dispute existed over overlapping maritime claims. Somalia asserted that bilateral negotiations had failed to resolve the disagreement, making judicial settlement necessary under international law. The dispute concerns the delimitation of the territorial sea, exclusive economic zone (EEZ), and continental shelf beyond 200 nautical miles, in an area believed to be rich in offshore hydrocarbon resources.

Somalia contends that the maritime boundary should follow an equidistance line extending seaward from the land boundary terminus, consistent with the principles of the United Nations Convention on the Law of the Sea (UNCLOS) and established ICJ jurisprudence. Somalia argues that this method ensures an equitable result and reflects the modern, three-step approach to maritime delimitation used by international courts: drawing a provisional equidistance line, considering relevant circumstances, and adjusting the line if necessary to achieve equity. Somalia rejects Kenya's claim that a boundary already exists along a line of latitude, asserting that no formal treaty or agreement establishes such a boundary. It maintains that historical practice, diplomatic correspondence, and joint submissions to international bodies do not demonstrate acquiescence or tacit agreement. Somalia further argues that Kenya's proposed boundary would unjustly cut into Somalia's maritime entitlements and disproportionately benefit Kenya.

Kenya disputes the Court's jurisdiction and argues that the matter should be resolved through bilateral negotiations rather than judicial determination. Kenya maintains that the parties had long operated under a de facto maritime boundary running eastward along a parallel of latitude, which Kenya claims constitutes a tacit agreement recognized through consistent state practice. Kenya further argues that strict equidistance would produce an inequitable outcome due to the coastal geography of the region and the need to preserve regional stability and security interests. It emphasizes the importance of maintaining existing arrangements to avoid disrupting economic activities and maritime security operations in the Indian Ocean.

Questions to Consider:

- What legal principles govern maritime boundary delimitation under international law?
- What implications does the ICJ's approach to the delimitation of maritime zones beyond 200 nautical miles have for the interpretation of continental shelf rights under international law?
- What is the significance of the ICJ's findings that there was no agreed maritime boundary between Somalia and Kenya prior to the proceeding?

Works Cited:

- <https://www.icj-cij.org/case/161>
- https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

Topic II: Immunities and Criminal Proceedings (Equatorial Guinea v. France).

On 13 June 2016, **Equatorial Guinea** instituted proceedings against **France** before the **International Court of Justice**. The case arose from criminal proceedings conducted by French authorities against Teodoro Nguema Obiang Mangue, Vice-President of Equatorial Guinea, in relation to alleged money laundering offenses. The dispute focuses on whether France violated international law by exercising criminal jurisdiction over a sitting high-ranking foreign official and by attaching and seizing a Paris property claimed by Equatorial Guinea as diplomatic premises.

Equatorial Guinea argues that France breached international law by failing to respect the personal inviolability and immunity *ratione personae* of its Vice-President, who it characterizes as a high-ranking state official entitled to full immunity from foreign criminal jurisdiction. It contends that such immunity applies regardless of the nature of the alleged acts and is essential to ensure the effective performance of official functions and the sovereign equality of states. Additionally, Equatorial Guinea claims that the Paris property at issue is part of its diplomatic mission and therefore protected under the Vienna Convention on Diplomatic Relations (VCDR). It argues that France violated the inviolability of diplomatic premises by searching, attaching, and attempting to confiscate the building. Equatorial Guinea maintains that the unilateral determination by French courts that the building was not diplomatic premises cannot override its sovereign designation.

France contests Equatorial Guinea's claims on both immunity and diplomatic premises. First, it argues that the Vice-President does not qualify for immunity *ratione personae* under customary international law, asserting that such immunity is limited to a narrow group of officials such as heads of state, heads of government, and ministers for foreign affairs. France

further contends that the acts in question were private and commercial in nature, falling outside the scope of any functional immunity. Second, France argues that the Paris building was not validly used as diplomatic premises at the time of seizure and therefore did not enjoy inviolability under the VCDR. It maintains that diplomatic status cannot be conferred retroactively or solely by unilateral declaration, especially where the property was acquired and used for personal purposes. France emphasizes its obligation to combat transnational financial crime and corruption within its jurisdiction.

Questions to Consider

- What legal grounds did Equatorial Guinea invoke to claim immunity for Mr. Teodoro Nguema Obiang Mangue and the inviolability of the building identified as its embassy in Paris?
- Why did the Court conclude that it lacked prima facie jurisdiction to hear Equatorial Guinea's request for provisional measures concerning Mr. Teodoro Nguema Obiang Mangue's immunity under the UN Convention against transnational Organized Crime?
- How did the ICJ interpret Article 22 of the Vienna Convention on Diplomatic Relations in its order for France to protect the premises identified as Equatorial Guinea's diplomatic mission?

Works Cited/Additional Resources:

- <https://www.idi-iil.org/en/publications/immunities-of-state-officials-from-foreign-criminal-jurisdiction/>
- https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf
- <https://www.icj-cij.org/case/163>