



ITAMMUN

- Modelo de Naciones Unidas del ITAM

## Rules of Procedure for the International Court of Justice (ICJ)

1. **SCOPE.** The rules of procedure for the International Court of Justice shall be considered adopted in advance.

2. **LANGUAGE.** English shall be the official working language of the Court.

3. **OFFICERS AND STAFF.** The Secretary-General shall appoint the President and the Officers of the Court who shall hold office until the closing of proceedings.

4. **STATEMENTS BY THE SECRETARIAT.** The Secretary-General, or any member of the ITAMMUN staff designated as his representative, may at any time address the Court.

5. **DELEGATIONS.** Each justice shall be represented by one person.

6. **CREDENTIALS.** The credentials of all justices are accepted upon registration. Any justice to whose admission another justice objects to shall be seated provisionally with the same rights as other justices. Actions relating to the modifications of rights, privileges, or credentials of any justice may not be initiated without written consent of the Secretary-General or his representative.

7. **AD HOC JUSTICES.** Where one or more of the parties to the case, is not represented by a justice of its nationality, they may choose a judge under Article 31 of the Court's Statute. The Court may sit with fifteen justices. *Ad hoc* justices shall have the same rights as full members for the duration of the pending case.

8. **GENERAL POWERS OF THE OFFICERS OF THE COURT.** The President will act as the Presiding Officer of the Court. The President may in any moment transfer his duties to the Vice-president or the Registrar. The President shall have final decision over all committee disputes. All judgments must be approved as to form and content and subsequently signed by the President in order to be filed with the Registrar for publication. The Vice-president shall assist the President in his duties and shall keep a record of all meetings. The Registrar shall be responsible for the upkeep of the General List of Cases, communication from and within the Court, and all Court documents. The Officers of the Court may also advise the justices as to the possible course of the debate. In the exercise of these functions, the Officers of the Court shall at all times be subordinated to the Secretary-General's decisions.



9. **COURTESY.** All Officers, justices, Agents, witnesses, experts, and friends of the Court shall show courtesy and respect to the Officers and participants. The Presiding Officer shall immediately call to order anyone who fails to comply with this rule.

10. **QUORUM.** The Presiding Officer may declare the Court in session and permit debate to proceed when at least 47% of the judges are present. The presence of 60% of the judges shall be required for any vote on a judgment. A quorum shall be assumed to be present unless specifically challenged and shown to be absent. A roll call is not in order to determine the presence of a quorum.

11. **INITIATION OF A DISPUTE.** An eligible state, seeking compensation from the Court against another eligible state, may initiate judicial proceedings against another state either through a Special Agreement – signed voluntarily by both parties to the dispute-, or by submitting an application to the Court. The State initiating the case shall be known as the **Applicant** and the accused state shall be known as the **Respondent**. No jurisdictional hearing will be deemed necessary, and the Courts jurisdiction shall not be put in question. The Court will proceed immediately to the Merits phase of the case. If the case is initiated by an application, the other state shall then be invited to submit a response. Upon reception of a Special Agreement or Application, the President shall title the case and place it on the General List of Cases. The President shall petition the parties to the dispute to submit written and oral testimony and shall set the sessions in which testimony is to be given.

12. **AGENTS.** Parties to a case shall be represented by lawyers known as Agents. Each party may be represented by a maximum of two Agents. Agents shall be responsible for presenting their state's arguments to the Court.

13. **PROCEDURE OF THE COURT.** As soon as the Presiding Officer declares the Court in session, the body shall begin with the written proceedings of the Merits hearing. Deliberation on the case shall consist of two hearings: Merits and Compensation (Compensation may not be applicable). Each hearing shall be divided into five phases:

(1) Written proceedings: In written proceeding, documents shall be presented in the following order:

- A Memorial by the Applicant;
- A Counter-memorial by the Respondent;
- A Reply from the Applicant;
- A Rejoinder by the Respondent.



(2) Initial Debate: The precise time allotted for initial debate shall be determined by the President.

(3) Oral proceedings:

Opening Statements by the Agents of the parties;

Questioning by the Court;

Closing Statements by the Agents of parties to the case.

(4) Final debate: Final debate may only be closed by a Motion to retire.

(5) Drafting and delivery of judgments: Initial Debates, and Oral Proceedings for anyone hearing may be dispensed with if both parties to the case agree.

14. **OATHS.** Each Agent, witness, expert or friend of the Court shall make the following declaration before giving his evidence to the Court: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth, and nothing but the truth." The Oath shall be administered by the Registrar, or in his absence, by another Officer of the Court.

15. **DOCUMENTS.** All supporting documentation shall be delivered to the Bench one week before the first session. The officers shall approve all documents and evidence and present the Agent with the general list of evidence. The Bench will exchange necessary evidence between the Agents so that they may prepare their cross examinations. Following the closing of the Written Proceedings, documentation shall be admissible only if both parties to the case agree.

16. **DEBATE.** Initial and Final Debate shall be conducted in an informal style, the precise manner of which is to be determined by the President.

17. **QUESTIONING.** During Oral Proceedings, the Court may put questions to Agents, witnesses, experts and friends of the Court. Agents may put questions forward to opposing counsels, witnesses and experts. The time and manner for the questioning of each individual shall be determined by the President in consultation with the Court.

18. **SPEAKERS LIST.** From here on, the term "speaker" shall refer to an Agent, witness, expert or friend of the Court addressing the Court during Oral Proceedings. During initial debate, the Presiding Officer, in consultation with the Court, shall determine the order in which speakers shall be called to appear for questioning.



19. **RIGHT OF REPLY.** A justice or agent whose personal integrity has been harmed may request a Right of Reply. The Presiding Officer's decision to grant this right is not appealable. A Right of Reply over a Right of Reply is out of order, and should be turned in a written form.

20. **APPEALING THE DECISION OF THE PRESIDENT.** Any decision that the President takes, with the exception of those matters that are explicitly designated *unappealable* by these rules, may be appealed by a justice. The President may speak briefly in defence of the ruling. The appeal should then put to a vote, and the decision of the Presiding Officer shall stand unless over-ruled by two-thirds of the justices present. The President's decision not to sign a judgment is never appealable. The President's ruling on the Right of Reply, Points of Order, Recess and Adjournment of the Meeting, and other rules expressly noted are unappealable.

21. **POINT OF PERSONAL PRIVILEGE.** Whenever a justice or agent experiences personal discomfort which impairs his ability to participate in the proceedings, he may present a Point of Personal Privilege to request that the discomfort be corrected. A Point of Personal Privilege may interrupt a speaker but should be used with the utmost discretion.

22. **POINT OF ORDER.** A justice or Agent may raise a Point of Order to complain about improper procedure and it shall be immediately decided by the President in accordance with these rules of procedure. The President may rule out of order those points which are dilatory or improper, and such decision is unappealable. A person rising to a Point of Order may not speak on the substance of discussion but simply about the violation he or she has observed. A Point of Order may interrupt a speaker but may not be used as an objection.

23. **POINT OF PARLIAMENTARY INQUIRY.** When the floor is open, a justice may rise to a Point of Parliamentary Inquiry to ask a question to the President regarding these rules and parliamentary procedure. A Point of Parliamentary Inquiry may never interrupt a speaker.

24. **OBJECTIONS.** An *assertion* is defined as evidence, opinion or analysis introduced by a speaker for the purposes of advancing a legal argument. Agents may object to an assertion of law or fact raised by a speaker, excluding questions by justices. Objections shall be ruled upon by the President unless a motion for hearing is made. Should the objection be sustained, the assertion shall be considered stricken from the record. The misuse of objections by agents shall be dully noted by the Court in its judgment. Objections must be made courteously and may interrupt a speaker. The following are valid objections:



- Immaterial: An objection to an assertion of law which does not conform to the rules of evidence set forth under Article 38 of the Statute or an objection to an assertion of fact which is not properly certified under oath. Circumstantial evidence may be submitted in support of an assertion of fact.
- Hearsay: A hearsay objection may be raised when a speaker asserts to a fact which he did not directly observe. Agents and friends of the Court may assert to a particular incident occurred even if they did not directly observe it, but such assertions shall not be considered as evidence.
- Competence: A competence objection may be raised when a speaker asserts to a technical fact that he is not professionally qualified to assess. Agents and friends of the Court may opine a particular technical fact is true but such assertions shall be considered as arguments, not evidence.
- Prejudicial: May be raised if an assertion is presented in such a way that the personal integrity of an Officer, justice, or speaker is harmed.
- Irrelevant: May be raised if an assertion is irrelevant to the case at hand.
- Speculation: This objection may be raised if a witness attempts to guess the answer of a possible outcome or question of which he cannot be certain.
- Leading the witness: May be raised if the Agent questioning the witness does so by putting forth questions that require simple answers and hints of the desired answers given.
- Badgering the witness: Whenever an Agent aggressively questions a witness placing him or her in an uncomfortable or intimidating situation that leads to the distress of the witness, this objection may be raised.

25. **ADJOURNMENT.** Whenever the floor is open, a justice may move for the adjournment of the meeting to suspend all committee functions for the duration of the conference. The President may rule such motion out of order. Such a motion requires a majority of justices present to pass. A motion to adjourn shall be out of order prior to the lapse of three-fourths of the time allotted for the last meeting of the Court.

26. **DISMISSAL OF THE WITNESS OR EVIDENCE.** Whenever the testimony of a witness or evidence is proved to be false, irrelevant or questionable, a motion to dismiss the witness or the evidence is in order. The Bench will recognize one speaker in favour and one against the motion, and a majority of two-thirds of the justices is needed for it to pass. If the motion passes, justices will be instructed to disregard the testimony.



27. **RECESS.** Whenever the floor is open, a justice may move to recess the meeting. The President may rule such Motion out of order, and this decision shall not be subject to appeal. The sponsor of the Motion may specify the time limit and briefly explain the purpose of the recess. The Motion shall then be put to an immediate vote, which passes with the affirmative vote of the majority of justices present.

28. **RECESS FOR CONSULTATION.** A Motion may be moved by an Agent for the purpose of consulting with his own government. The President shall rule either in favour or against the Motion and shall establish a time limit not exceeding five minutes for the recess; such decision is final.

29. **RETIREMENT.** During final debate, a justice may move the Court to reconsider a decision. When the Motion to retire is moved the President shall recognize up to two justices against the Motion. This Motion requires a two-thirds majority of the justices present to pass. If the vote to retire carries, a justice may move for a poll on the issue. When the Motions for polls have been exhausted, the Court shall then proceed, in closed Court, to take a vote on the whole of the case. Justices may vote "Yea", in favour of the applicant, "Nay", in favour of the respondent, or may abstain. The first vote is non-binding. The justices then proceed to draw up their judgments after which a second vote shall be taken to see if any justice has reversed his opinion. The second vote shall determine for whom the judgment is rendered and this vote is binding. The Presiding Officer shall then declare for whom the judgment is rendered and then shall determine which opinion of the majority is to be deemed the Opinion of the Court. The Presiding Officer shall then reconvene the Court to deliver the judgment to the parties and shall subsequently declare the case closed.

30. **POLLS.** A justice may *at any time* move for an informal survey on any point of fact or law on which he wishes to know the Court's opinion. Any justice may object to such a poll. The President will consider the objection and, using his own discretion, will rule on the Motion subject to an appeal. The poll shall then be answered by the justices so that a yea or nay answer is provided by each justice. A common example of the use of a poll would be to ask whether a practice of international law may be considered as international custom.



31. **REQUEST FOR EVIDENCE, WITNESSES AND EXPERTS.** A justice may, if evidence has not yet been submitted or a speaker is not in the Speakers' List, request the Court to invite testimony or evidence to be presented. The President shall allow the sponsor of the Motion to explain his reason for requesting the invited testimony or evidence after which an immediate vote will be taken, a majority of the justices present needed for it to pass. The Court is reminded it has no jurisdiction to compel evidence or testimony provided, but a party's failure to do so may be noted in the judgment.

32. **INTERVENTION.** A third party nation or international organization may, before the close of initial debate, petition, submit evidence or testify. The President shall at some point during initial debate place such request to a vote; a majority of justices present is needed for the request to be accepted. If the Motion carries, the third party shall be invited to give evidence or testimony as a friend of the Court.

33. **HEARINGS.** Before the President has ruled an objection, a justice, feeling the matter requires special consideration, may move for a hearing on the objection. The President may rule the Motion dilatory, subject to an appeal. Having accepted the Motion, the President shall place the request to an immediate vote; the majority of justices present is needed for it to pass. If the Motion passes, the President shall recognize two speakers in favour of sustaining the objection and two speakers opposed, after which the Court, by a majority vote of the justices present, shall rule on the objection.

34. **RECONSIDERATION.** A petition for reconsideration must be submitted by an agent immediately after the judgment is rendered. It must be sponsored by a justice who voted with the majority. The President shall then place the Motion to the justices and two-thirds of the justices present shall be required for reconsideration.

35. **VOTING.** Each justice will have one vote. In the event of a tie, the President shall have the deciding vote. Justices may not abstain from procedural votes. Justices may only abstain on substantive votes if they feel there is a conflict of interest which shall be immediately reported to the president. Justices who abstain from substantive votes shall not be considered in deciding the total needed to determine the result of the vote, which shall be taken by roll call. The applicable rules of voting shall be similar to those used on Retirement (Rule #29). After the Presiding Officer has announced the beginning of voting, no person shall interrupt the voting, except on a Point of Order in direct connection with the actual conduct of voting. Justices disrupting the voting may be asked to leave the room.



36. **JUDGEMENTS.** The majority of the Court is defined as the group of justices that are enough for a vote to be determined either way. The opinion of the Court shall be deemed the opinion receiving the most signatures from among the opinions written by the majority of the Court. If no opinion should attain a plurality of majority signatures so as to be considered with the opinion of the Court, the Presiding Officer will declare no opinion of the Court exists and shall subsequently draw up as statement declaring for whom the ruling is rendered followed by the opinions drawn up as statements declaring for whom the ruling is rendered followed by the opinions drawn up by justices. The opinion of the Court shall contain:

- The date on which it is delivered;
- The names of the justices authorizing the opinion;
- The names of the parties and Agents;
- A summary of the proceedings;
- A statement of the submissions of the parties;
- A statement of the facts;
- The reasons of law;
- The operative provisions of the judgment;
- A justice's dissenting (opposing the judgment) or concurring (agreeing with the judgment but for a different reason than those stated) opinion.

37. **INTERPRETATION CASES AND ADVISORY OPINIONS.** The procedure of the Court shall be subject to modification by the President in cases whose primary purpose is to ask the Court for an interpretation of a previous judgment, or in cases which are referred to the Court by the Secretary General for an advisory opinion.



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## **DRESS CODE**

The United Nations, as an international organization, is an example of formality and diplomacy in which our appearance is of vital importance. To make of this simulation a success, the following dress code will apply:

### **MEN**

A suit or jacket and dress pants (no jeans), with a dress shirt and tie will be required. Socks and dress shoes must be worn. No hats or caps will be allowed.

### **WOMEN**

A dress, suit, slacks or skirts (no jeans), with a blouse or sweater will be required. Dress shoes must be worn.

Let us remind you that the Chair will strictly overview the following of the dress code, and non-compliance with it will merit a warning. Besides proper attire, a delegate's badge must be worn all times. In case of a delegate choosing to assist in traditional or ethnic attire, the Chair must approve to it for him to be allowed into the Committee, so anything excessive is suggested against.



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## **SAMPLE LEGAL NOTE**

A Judicial Note

Madam Justice Higgins

March 15, 2000

Re: Netherlands vs. Sweden

Dear Colleagues:

This Case presents us with some interesting problems of prioritizing the various elements of international law. Our first Job, however, will be to determine the facts. Although I cannot be sure how the facts will come out in Court, I can present some of the questions which I feel the Court must answer. First, we must determine exactly how and why Sweden authorities decide to place Marie Elizabeth Boll in Skyddsuppfostran, the Swedish protective education programs for infants. This will help us answer the questions raised by article VII of the 1902 Convention, which states that "in waiting for the organization of guardianship, in case of urgency, necessary measures for the protection of person and interests of the infant may be taken by local authorities."

I feel there are three primary legal questions we will need to address. Can *puissance paternelle* supersede international treaty obligations? This seems to me a dubious proposition, as it is not even a proper element of international law, but Sweden has presented such an argument. Second, can Sweden's actions, applied as order public and thus not be subject to the 1902 Convention?

I believe that Sweden must prove that at least one of the preceding questions so as that it did not break its obligations under the 1902 Convention. I look forward to working with you on this case and welcome any opinions voiced on my analysis.

(signed)  
M. Higgins



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## **SAMPLE OPINION**

Application of the 1902 Convention concerning  
the Guardianship of Infants

Netherlands vs. Sweden

20 November 1958

Justices Suarez, Doak, Ty and Bonfili

The Case of the application of the Convention of 1902 Concerning the Guardianship of infants was submitted by the nations of the Netherlands and Sweden and the further clarified by the Swedish and Dutch Agents,

The Opinion must include the next sections and/or paragraphs:

- Statement of the facts,
- Admissibility of the Convention or Treaty that should be applied,
- Application of the Convention or Treaty (how will it be enforced to the case).

For these reasons,

The Court

Does adjudge and declare,

That the measures taken and maintained by Swedish authorities in respects to Marie, namely the Skyddsuppfostran,

This Judgment

On the twenty-second day of October, nineteen hundred and ninety eight, at the first session of the ITAMMUN International Court of Justice

Is passed by a vote 10 to 2

The Concurring Opinion of Justice Hartman and the Dissenting Opinion of Justices Baader and Meinhof is attached.



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## **SAMPLE CONCURRING OPINION**

Justice, J. Fredrich Hartman

I concur with the Court's conclusion with one respectful exception. The Court finds that the concept of *puissance paternelle* in no way overrides Sweden's obligations under the 1902 Convention. However, I feel that... (Explain why, briefly).

## **SAMPLE DISSENTING OPINION**

Justice, Baader

In this matter of Netherlands vs. Sweden, the Court has concluded that ...Respectfully, I dissent. The reasons for this are fundamental in nature and cause a profound rift between our opinion and that of the majority... (Explain why, briefly).

**The Statute of the Court is available for viewing in the official web-page of the Court, under *Basic Documents*:  
<http://www.icj-cij.org>**

**It should be an integral part of every Justice's and Agent's file.**