THE 2006 NATIONAL MODEL UNITED NATIONS

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Distinguished Delegates:

Greetings and welcome to the International Court of Justice at the 2006 National Model United Nations Conference (NMUN)! My name is Jill Dawson and I am truly honored to serve as your Director for this year's simulation. For NMUN 2006, in order to expand and enhance the simulations provided by the conference, our committee will only be staffed by a Director. I have a strong passion for international law and enjoy working with those who wish to enter the field or merely have an interest in learning more. This is my second year on the NMUN staff. I am originally from Macon, Georgia, and I am a 2001 Berry College graduate with a degree in Political Science and International Studies. I received my *Juris Doctorate* in International and Comparative Law in May of 2005. I have worked as a research assistant at Human Rights Watch in their International Justice Program. In 2005, I presented a workshop entitled "Delegate Preparation for Legal Committees" at the United Nations Association of the United States of America's Model U.N. Leadership Summit.

This committee promises to be an exciting experiment as we undertake an entirely new legal simulation program. New to this years conference is the actual simulation of three ICJ cases in their entirety, including oral argument. I hope that our foray into international law will educate, inspire, and entertain you. To that end, your Under-Secretary General for the General Assembly, Jacob Schanzenbach, and I have worked diligently to provide as much detailed preparation for the three cases below:

1. Application of the Convention on the Prevention and Punishment of the Crime of Genocide **(Croatia v. Serbia and Montenegro)**;
2. Injurious Actions of a State Against an Individual: Ahmadou Sadio Diallo **(Republic of Guinea v. Democratic Republic of the Congo)**;
3. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge **(Malaysia/Singapore).**

Although the task ahead may seem daunting, I want each of you to know that you will be provided with numerous resources to assist you as you begin your preparations. Traditionally thorough background guides are provided, however, a new delegate preparation guide specifically for this ICJ simulation is also available herein. The delegate preparation guide includes an introduction to the international legal system and the ICJ, instructions and suggestions for research, oral argument details, guidelines for writing opinions and an annotated bibliography to help you get started. The guide also explains the role of *amicus curiæ* (friend of the court) parties, including NGOs as well as rules for memorials and counter-memorials (the NMUN ICJ's version of position papers submissions). I urge you to read thoroughly these materials, as they will ensure adequate preparation for the committee. I will also be managing both a listserve for emailing questions about the simulation as well as a message board where questions and important information will be posted. Each of these can be accessed through the NMUN website and I will be posting information on both of these resources in the near future. However, do not stop there! I encourage you to expand your research beyond the materials provided. Find something that interests you and explore it fully. I guarantee that the more prepared and well researched you are the more fun you will have.

Each delegation is required to submit a specific type of position paper. However, this will vary in format and style depending upon your assignment within the committee. More information about this will follow in the Background Guide and the ICJ Delegate Preparation manual. NMUN is accepting these papers via e-mail. All papers are due by **March 10, 2006**. An important message from the Director-General regarding where papers should be submitted, expectations for their content and format, and inquiring about alternatives to e-mail submissions is included on pages 2-3 of this guide. It is vital that all delegates adhere closely to these instructions. Additional information on the conference and the ICJ will also be posted at the NMUN conference website at http://www.nmun.org. You are requested to access this website regularly to receive updates on your committee.

Lastly, please do not hesitate to contact me with any inquiries. If you have any questions, please feel free to contact Jacob or myself at the below listed e-mail addresses. I look forward to meeting each of you in April. Good Luck!

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Message from the DG Concerning Special Features Regarding the ICJ Committee

To better simulate the actual workings of the UN system and its related organizations, the 2006 NMUN Conference is using many of the rules and procedures used by the bodies being simulated. It is vital that all materials provided in this background guide be reviewed thoroughly prior to attending the conference in April. All delegates should be very familiar with the particular rules and procedures discussed in this special message and the rules of procedure further illustrated in back of this committee background guide.

The International Court of Justice (ICJ) during the 2006 NMUN Conference will simulate the entire proceedings of three cases. These proceedings will include: the swearing in of the justices of the ICJ; the presentation of opening statements and closing statements on each case; the cross-examination of witnesses and the presentation of evidence and deliberation by the justices on the cases. Due to the use of most of the real rules and procedures used at the ICJ, it is vital that delegates fully read the attached delegate preparation manual which has been specifically created for those participating in this committee. Unlike preparing for the rest of the committees at the 2006 NMUN Conference, delegate preparation for the simulation of the ICJ will rely on the preparation materials provided in this background guide and additional materials that the Director for the ICJ, Jill Dawson, will provide via email and on the NMUN website throughout the year.

Rules of Procedure for the ICJ Simulation
Due to the special nature of the ICJ at the 2006 NMUN Conference, a particular set of rules of procedure will be used during the simulation. These rules of procedure to be used for the ICJ simulation will be a modification of the real rules of procedure used at the ICJ. The full set of the rules of procedure will be posted on the NMUN website by January 1, 2006.

For those delegations that would prefer the rules of procedure are sent to them, please contact Jill Dawson at icj@nmun.org and the Secretariat can arrange to have these be sent either via email or regular post. We apologize for these rules of procedure not be made available in this background guide, but the rules will be just a more specific reflection of the materials you will find beginning of page 21 of this background guide.

Citations Used in This Manual
Due to the special nature of the ICJ at the 2006 NMUN Conference, basic legal citation has been used in the second half of this background guide. In this section, you will find a discussion of the basic facts of the three cases before the ICJ. This basic legal citation, often referred to as "Bluebook citation," is slightly different from the standard citation format used here at the NMUN Conference in most of the background guides. For this reason, in the International Court of Justice Background Materials section of this background guide, you will find a limited annotated bibliography which does not include the legal documents being referred to in each of the cases. For more information on the "Bluebook citation" method (basic legal citation), contact Jill Dawson for greater detail. Also, you can refer to the following website maintained by Cornell University Law School, which discusses this citation method: www.law.cornell.edu/citation/

If you have any questions concerning any issue concerning the International Court of Justice simulation at the 2006 NMUN Conference, please do not hesitate to contact Jill Dawson, the Director of ICJ at icj@nmun.org; Jacob Schanzenbach, the Under-Secretary General for General Assembly & ICJ, at usg.ga@nmun.org; or myself at dirgen@nmun.org.

Message from the Director General Regarding Position Papers for the International Court of Justice 2006 NMUN Conference

Due to the special nature of the simulation of the International Court of Justice (ICJ), please read the following points and the points in the rest of this ICJ delegate preparation manual before you construct your position paper for the ICJ.

The position papers for the Justices should not reflect their particular nation's position on the topics, but their own objective opinion based on their reading, research and assessment of the issued presented in each case. It should identify what the facts and issues are for each case as well as what possible legal standards should be applied; describe how the standards should be applied to the particular facts; and conclude how the various issues should be resolved. It should be written with the utmost objectivity and reflect on a preliminary finding of fact and law.

The Justices' preliminary opinions should reflect:

1. A statement of facts (what are the facts of the case?);
2. A statement of the applicable law (the possible legal standards should be applied, what laws, customs, precedents or treaties apply?);
3. An application of the law to the facts (How does the law view the situation?);
4. A statement of the remedies that should be required by the Court (What should the parties do to remedy the situation?); and
5. A conclusion

Advocates/Assessors

The Advocates will produce a position paper that would serve as the memorial/counter-memorial for each State-party and will outline the arguments/positions for each side. Their position papers should reflect the following, in this order:

1. A statement of facts (what are the facts of the case, as viewed in the light most favorable to your position?);
2. A statement of the applicable law (the possible legal standards should be applied, what laws, customs, precedents or treaties apply?);
3. The detailed argument section, which discusses how the law and facts apply to the particular case as well as a counter-argument to the anticipated arguments of your adversary (how do the laws and facts support your case?);
4. An application of the law to the facts (How does the law view the situation?);
5. A statement of the remedies that should be required by the Court (What should the parties do to remedy the situation?); and
6. A summary and request for remedy (what do you want the Court to do?).

Please be forewarned, delegates must turn in material that is entirely original. The NMUN Conference will not tolerate the occurrence of plagiarism. In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim recreation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the committee background guides. Violation of this policy will be immediately reported to faculty advisors and may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

An important component of the awards consideration process is the format of the position papers. Please refer to the sample paper on the following page for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the background guides (following the specifications below will ensure this)
- Length must **not** exceed one double-sided page (two single-sided pages is **not** acceptable)

- Font **must** be Times New Roman sized between 10 pt. and 12 pt.
- Country/NGO name, School name and committee name clearly labeled on the first page
- Agenda topics clearly labeled in separate sections
- No binding, staples, paper clips, or cover sheets should be used on any of the papers

To be considered timely for awards, please read and follow these directions:

1. A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed below. (Each address is also listed in individual background guides who will be mailed in November.) These e-mail addresses will be active after 30 November. Delegates should carbon copy (cc:) themselves as confirmation of receipt.

2. Each delegation should send one set of all position papers to: *positionpapers@nmun.org*. This set (held by the Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments. *NOTE: This e-mail should only be used as a repository for position papers.*

Each of the above listed tasks needs to be completed no later than **March 10, 2006**. *E-mailed files should be in Microsoft Word (.doc), Rich Text (.rtf), or Adobe (.pdf) formats*.

PLEASE TITLE EACH E-MAIL/DOCUMENT WITH THE NAME OF THE COUNTRY & COMMITTEE

A matrix of received papers will be posted online for delegations to check by March 20, 2006. If you need to make other arrangements for submission, please contact Kevin Grisham, Director General, at dirgen@nmun.org or at 909-991-5506.

Additionally, each delegation should submit a copy of their position paper to the permanent mission of the country you are representing along with an explanation of the Conference. Those delegations representing NGOs do not have to send their position paper to their NGO headquarters, although it is encouraged. This will assist them in preparing your mission briefing in New York.

Finally, please consider that over 1,000 papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and is greatly appreciated. Should you have any questions please feel free to contact the conference staff, though as we do not operate out of a central office or location your consideration for time zone differences is appreciated.

Kevin E. Grisham
Director-General

Sample Position Paper

The following position paper is designed to be a sample of the standard format that an NMUN position paper should follow. While delegates are encouraged to use the front and back of a single page in order to fully address all topics before the committee, please remember that only a maximum of one double-sided page (or two pages total in an electronic file) will be accepted. Only the first double-sided page of any submissions (or two pages of an electronic file) will be considered for awards. Visit downloads section at *www.nmun.org* to find an example of an award-winning position paper. When using these sources, please be mindful of the NMUN's policy against plagiarism.

Delegation from
The State of _____

Represented by the
State University

Position Paper for the General Assembly Plenary

The issues before the General Assembly Plenary are: The Situation in Sub-Saharan Africa; Racism and Racial Discrimination, and A Comprehensive Review of United Nations Peacekeeping Operations. The State of Tranquility a proud member of the Regional Alliance of Peaceful Countries and a fully supports other regional groups in their efforts to coordinated a regional plan for sustained and sustainable development. In that regard, the State of Tranquility recognizes the necessity of ensuring the full realization of the Right to Development as declared in the Declaration on the Right to Development and the Final Report of the Working Group on the Right to Development. Tranquility fully supports the implementation of national development plans with the cooperation of regional organizations, the United Nations, and the international community. Tranquility is firmly committed to addressing the underlying factors

I. The Situation in Sub-Saharan Africa

The State of Tranquility believes that the principles of sovereignty, territorial integrity and economic security lend themselves to the pacific settlement of disputes in Sub-Saharan Africa, the most ethnically diverse region in the world. The lack of development in the region constitutes the root cause of political instability and conflict. The report of the Secretary-General, *An Agenda for Peace: Recommendations,* if implemented, could enhance the work of the Organization in its efforts to bring about sustainable development in Africa. Tranquility also believes that the use of preventive development in Africa could ensure that conflicts such as those in Liberia, Rwanda, Angola, Somalia and the Democratic Republic of the Congo can be avoided before they erupt. While obstacles to be overcome are many, international support for effective national programs to ensure the relief to rehabilitation to development continuum through post-conflict peace-building, can enable Sub-Saharan Africa and the entire developing world to achieve the sustainable development which alone will guarantee regional peace and stability. The State of Tranquility fully supports the increased cooperation between the United Nations and regional organizations in all aspects of dispute settlement and peace-keeping. Increased support for such regional efforts, when combined with measures to eliminate the root causes of regional conflict, serves to further enhance the prospects for lasting peace, security and development in Sub-Saharan Africa and throughout the entire international community.

II. Racism and Racial Discrimination

The State of Tranquility believes that the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance offers the global community an opportunity to establish an updated plan of action to completely eradicate racism and racial discrimination throughout the world. The necessity for all Member States to sign, accede to and ratify the International Convention on the Elimination of All Forms of Racial Discrimination is an integral part of this plan, as policies and practices based on racism and racial discrimination remain devastating to regional social, economic and infrastructure development. Tranquility encourage all States, international organizations and non-governmental organizations to increase their efforts to combat racism, racial discrimination and xenophobia and to provide assistance to those affected by such practices. The lack of financial resources that prevented the international community from realizing its objectives in the three previous United Nations Decades to

Combat Racism and Racial Discrimination must not continue to hinder the international community in guaranteeing the fundamental human rights of all peoples.

III. A Comprehensive Review of United Nations Peacekeeping Operations

The State of Tranquility remains firmly committed in support of the continued role of the United Nations Security Council as the primary agent for the maintenance of international peace and security, as mandated under Chapters IV and V of the UN Charter. We strongly recommend the authorization, determination, composition and financing of peacekeeping operations should be determined by the Council, as authorized by Articles 24, 25 and 26 of the Charter and in conjunction with the recommendations of the Special Committee on Peacekeeping Operations. Additionally, the State of Tranquility endorses the current role of the Secretary-General as administrator of the Operations established by the Council. The State of Tranquility remains a central contributor for both financial and logistical support of the United Nations Peacekeeping forces and will continue to contribute to the United Nations Peacekeeping Budget throughout the duration of the current year.

The State of Tranquility is firmly committed to addressing all threats to international peace and security through regional arrangements and multilateral forums. The international community must address the underlying causes of these conflicts and the destabilizing effects of such conflicts on entire regions. Tranquility is convinced that increased utilization of regional and sub-regional peacekeeping mechanisms can enhance the ability of peacekeeping missions to take into account historical, social, and cultural values and traditions within areas of conflict.

As operation costs continue to escalate, however, our nation strongly urges all Member States and the Secretary-General to devote greater attention to the monetary and management aspects of peacekeeping operations and provide serious consideration for the establishment of operation termination dates. The State of Tranquility further supports the proposal endorsed within A/Res/44/49, calling for Member States to develop and maintain an inventory of supplies and equipment to be made available for Operations on short-notice. In addition, the State of Tranquility calls upon Member States to recognize the need to maintain voluntary contributions for United Nations Peacekeeping Operations to reduce the continuing problems incurred by funding deficits.

Resolution Writing and Report Writing at the NMUN Conference

The substantive output of committees at the NMUN conference generally takes the form of either resolutions or reports. At the 2006 NMUN Conference, the ICJ and the World Trade Organization (WTO) Ministerial Meeting, will adopt variations on these forms. The ICJ will create judgments and the WTO Ministerial Meeting will produce a declaration.

Please refer to the chart below which designates whether delegates will be writing resolutions or reports in the committee they are participating in at the 2006 NMUN Conference:

Resolution Writing Committees

- GA Plenary; GA First; GA Second; GA Third; and ILC
- All Security Council Committees
- ECOSOC Plenary; ECA; UNICEF; UNEP; and UNDP
- G-77; OIC; AU; and NATO

Report Writing Committees

- CSTD; CESCR; WCDR; CSW
- UNAIDS and UNHCR
- IADB and APEC

Resolution Writing

A resolution is the most appropriate means of applying political pressure on Member States, expressing an opinion on an important issue, or recommending action to be taken by the United Nations or some other agency. Most UN resolutions are not binding "law"; the only body which may produce resolutions that are binding upon the Member States of the United Nations is the Security Council. (In most cases, the resolutions and reports produced by the IGO committees simulated at the NMUN Conference are binding upon its individual Member States.)

Under UN rules of procedure, unlike other more generalized rules of procedure, the topic on the floor is debated in its entirety. This means that during debate, delegates should discuss the whole issue and all of the resolutions regarding that issue. When debate is exhausted, or is ended, the body then votes on each resolution and amendment and the issue are considered closed.

The National Model United Nations does not allow pre-written resolutions on any agenda topic. For this reason, delegations are not allowed to contact each other before the conference to begin caucusing. The NMUN process of writing resolutions during committee sessions is designed to teach delegates the concepts of negotiation and concession; pre-written resolutions hinder that learning process.

The goal of formal debate and caucusing is to persuade enough countries in the committee to support a particular solution to the topic under discussion. Resolutions formally state the agreed-upon solution by outlining the relevant precedents and describing the proposed actions. The committee is not limited to one resolution per topic; often the committee will pass multiple resolutions dealing with different aspects of a topic.

Report Writing

Some committees at the conference will draft reports during the course of negotiations, instead of resolutions. These reports represent the full work of the committee in question. These reports should not be confused with the summary reports of a committee's work which are presented at the Saturday Plenary Sessions of either the General Assembly or ECOSOC. Directors of report writing committees will elaborate on the process used in reporting writing committees on opening night (Tuesday night). Prior to the NMUN Conference in April 2006, a handout with a lengthier sample report for delegates to use as a model will be posted on the NMUN Conference website at *www.nmun.org*.

Reports are similar in nature to resolutions, with only a few key differences. Reports represent the formal recommendations and/or decisions of the committee on the agenda topics at hand, in the same manner as resolutions, but in the form of one document. Committees that write resolutions typically produce a number of draft resolutions for each topic, and each one is subject to a substantive vote by the body. In a similar manner, committees that write

reports produce several draft report segments and then vote on each one. The final report of these committees will combine the adopted draft reports into one comprehensive report at the end of the simulation.

Another key difference is the format of reports. While resolutions consist of one long sentence, reports are a series of complete sentences. Thus, where the clauses of a resolution each contain one whole concept, a report is composed of paragraphs, each constituted by a sentence or a few sentences which contain one whole concept.

The Roles of State Delegates, Technical Experts & Independent Technical Experts at the 2006 National Model United Nations (NMUN) Conference

The Variety of Roles That Delegates Simulate at the NMUN Conference

At the National Model United Nations (NMUN) Conference, delegates assume one of three roles when they participate in committee proceedings. They serve as a delegate representing the national interest of their state (state delegate), a technical expert, or an independent technical expert. At the 2006 NMUN Conference, only the justices of the International Court of Justice will serve in this capacity. Due to independent technical experts only serving in the ICJ, this role will specifically be addressed in the ICJ Background Guide.

The United Nations, particularly the General Assembly, is essentially a political organization. However, there is also a significant role within the system for technical experts in many areas. Because the UN, its subsidiary bodies, related programs, and affiliated organizations speak to such a broad range of issues, experts are often needed to properly address complex problems and make informed recommendations to the General Assembly and Member States. Several ECOSOC committees and almost all of the Specialized Agencies consist of technical experts in the field, as opposed to political representatives. It is critical that delegates representing technical experts understand the complex nature of the expert role.

The following committees at the 2006 NMUN Conference consist of technical experts: *International Law Commission (ILC),* the *Commission on Science and Technology for Development* and the *Committee on Economic, Social and Cultural Rights (CESCR)*.

Technical Experts within the United Nations System

The most important distinction between technical experts and political representatives is the relevance of global objectives, as opposed to national priorities. While the political needs and limitations of your individual countries and regions are important, and must be considered in the appropriate context, you are charged with serving as experts in the fields addressed by your respective committees. In other words, the top priority of a technical expert is to assess challenges and propose solutions to relevant issue areas, not to present or promote the political agenda of one particular country.

As you prepare your position papers, please keep in mind your status as technical experts. Instead of traditional, country-specific policy statements, position papers should reflect your expert opinions and recommendations on your committee's topics. This should also be kept in mind when working on documents for the committee during the NMUN Conference in April 2006.

INTERNATIONAL COURT OF JUSTICE DELEGATE PREPARATION MANUAL

A Quick Guide to the Structure of International Law

Introduction to International Law

International law is composed of the rules and norms, which regulate state conduct. States make international law by consenting to treaties and recognizing customary norms. These conventions or treaties are explicit agreements, usually written, between two or more states and are binding only on the parties to the agreement. Some treaties codify customary law, which existed for centuries, such as laws relating to the protection of civilians in times of war or the protection of diplomats. Other treaties create new rules such as agreements on space law.

Customary international law is formed through consistent state practice adhered to over a period by states from a sense of obligation. Complete uniformity of state practice is not necessary. The development of customary law is a slow process. However, in certain circumstances, a rule can develop rapidly. This can happen when a new rule originates from or is reflected in a multilateral treaty of general application. One example of customary international law is the treatment of merchant ships during a time of war. There is a general agreement amongst all states that merchant ships are allowed to carry goods to port of entry without being fired upon, captured, or subjected to blockade.

Customary international law includes certain norms by which all nations must abide. These peremptory norms are referred to as *jus cogens*. The 1969 Vienna Convention on the Law of Treaties defines a peremptory norm as one accepted and recognized by the international community from which no derogation is permitted. It follows that, if a treaty is concluded in violation of such a peremptory norm of international law, the treaty is null and void. An example of *jus cogens* is the general acceptance of genocide as a crime against humanity. States are forbidden from both committing genocide and from creating or entering into treaties that permit genocide.

Relationship between Municipal Law and International Law

How a state incorporates international law into its legal system is a determination that each state makes for itself. No uniform method of integration exists. Thus, the application of treaty or customary international law varies from state to state. Customary international law is usually applied by the Courts, and sometimes integrated into local law by means of the national constitution. This process is called incorporation. Under the United States Constitution, treaties are the supreme law of the land. In Belgium, France, Luxembourg, and the Netherlands, international treaty law takes precedence over conflicting internal law.

The Law of Treaties

Treaties appear under many names. They are called charter, agreement, convention, protocol, memorandum, pact, exchange of notes, or more than 25 other titles. If an agreement creates binding rights and obligations between states under international law, it is, in fact, a treaty.

Treaties vs. Customary International Law

Rights and obligations of states under international law derive primarily from two sources: customary international law and treaties. As stated above, customary international law is law that has evolved from years of state practice, a practice that states engage in out of a sense of obligation. Treaties are created by deliberate actions taken by states to regulate specific activities and conclude agreements. Today, they are the principal source of rights and obligations in international law.

The United Nations and International Law

The Charter of the United Nations was drafted at the United Nations Conference on International Organization in San Francisco, California. It was signed on June 26, 1945 and entered into force on October 24, 1945. It is the multilateral treaty, which created the United Nations organization. The Charter is the constitution of the organization, defining its purposes, functions, and limitations. It also outlines the rights and duties of member states. Because the Charter creates binding obligations on state parties, it is a treaty.

The General Assembly

The General Assembly is the plenary or parliamentary organ of the United Nations. It serves as a forum for the exchange of ideas and discussion of problems. It can also be an important indicator of universal consensus on particular issues or subjects. The functions of the General Assembly are set out in the Charter. Essentially, it considers and makes recommendations to member states, the Security Council, or both on any question within the scope of the Charter. For this purpose, the General Assembly has established six main committees, which mirror the functions of the Assembly where the Sixth Committee is the Legal Committee.

Under the Charter, the General Assembly is charged with the task of promoting and encouraging the progressive development of international law and its codification. The General Assembly performs this task through various means:

1. Establishment of subsidiary bodies such as the International Law Commission, which is composed of individual experts and prepares draft conventions or other legal texts;
2. Decisions of the General Assembly on certain topics (i.e. budgetary, member credentials) are binding;
3. Occasionally, resolutions of the General Assembly become binding international law. The best example of this is the Universal Declaration of Human Rights. Although when it was originally introduced by the General Assembly, it was meant only to be an inspirational statement of human rights. However, over time, its contents have become so universally accepted as promoting the ideal standards for human rights that it is now seen as document that creates obligations for state parties. It is also used in the international legal system as a tool for evaluation of human rights.

The Security Council

Article 24 of the United Nations Charter gives the Security Council primary responsibility for the maintenance of international peace and security. In dealing with situations that the Council has determined pose a threat to peace and security, it can adopt binding decisions. In recent years, the Security Council has expanded on traditional interpretations of its power to maintain international peace and security. Particularly relevant to international law is the Security Council's creation of the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The Security Council viewed the lack of judicial process that existed after the genocides in Rwanda and Yugoslavia as a threat to international peace and security and used its power to create, fund and monitor these special courts.

The International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. It is organized in accordance with the Court's Statute, which is a part of the United Nations Charter and is open only to states. The Court is composed of fifteen Justices, no two of whom can be of the same nationality, elected in their personal capacity. The Court's seat is in The Hague, Netherlands. The sources of international law that the Court may apply in adjudicating disputes are set forth in article 38 of its Statute:

1. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
2. international custom, as evidence of a general practice accepted as law;
3. the general principles of law recognized by civilized nations;
4. subject to the provisions of article 59, judicial decisions and teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

The Court may also decide a case based on the principle of equity, *ex aequo et bono,* if following precedent or traditional treaty interpretation would produce an outcome that violates traditional notions of fairness. The Court has never applied this method in practice. The Court gives a single opinion, which is binding on the parties. There is no appeal. It is the responsibility of the parties to carry out the judgment of the Court. The Security Council has the power to enforce the ICJ's judgments under the United Nations Charter although it has never done so. Individual Justices in both the majority and the dissent may write opinions of their own. French and English are the official languages of the Court. Although the Court's judgments bind only the parties to a dispute, its decisions carry, great

weight as they are indications of widely held interpretations of international law. Jurisdiction of the Court is founded on consent. Under article 36, section 1 of the ICJ Statute, the Court has jurisdiction over all cases referred to it by the parties and all those provided for in the UN Charter and in other treaties in force. Disputes are referred to the Court by *compromis*, or special agreement, embodying the consent of the parties to the dispute to submit the case to the Court's jurisdiction.

The Court has also inferred consent to its jurisdiction. In the *Corfu Channel* case,[1] the unilateral application of the United Kingdom in conjunction with letters from Albania intimating acceptance of the Court's jurisdiction was deemed by the Court to constitute consent. States may also declare that they accept jurisdiction of the Court under article 36 section 2, the optional clause, which gives the Court jurisdiction over a dispute without further agreement by the parties if it involves two states who have accepted the jurisdiction on the same basis. The dispute may concern treaty interpretation, questions of international law, facts that would constitute a breach of an international obligation and the nature or extent of reparations made for those breaches. These declarations can be unconditional, on condition of reciprocity, subject to reservations, or time limited. They may also be modified or withdrawn.

Many treaties specifically provide that the ICJ have jurisdiction over disputes arising from their interpretation and application. If a question arises concerning whether the Court has jurisdiction, the Court itself must resolve the issue of its jurisdiction. It is not unusual for the defendant states to challenge jurisdiction. The procedure before the ICJ is set out in the Statute and in the Rules of the Court. It provides for both written and oral pleadings. When a party fails to appear, as happened in the *Nuclear Tests* case [2] and the *U.S. Diplomatic and Consular Staff in Teheran* case,[3] the Court can decide in favor of the appearing party if it is satisfied those jurisdictional requirements have been met and that the claim is well founded in fact and law.

The Court can form chambers to deal with a particular category or categories of disputes. A chamber is organized in consultation with the parties although it is elected by the Court. Apart from adjudicating disputes between states, the ICJ is also authorized to give non-binding advisory opinions on legal questions when requested to do so by the General Assembly, the Security Council, or other bodies authorized by the United Nations Charter. This occurred in the *Western Sahara* case.[4] Advisory opinions assist these bodies in settling specific disputes and provide authoritative guidance on points of law arising from the functions of United Nations organs and specialized agencies. A state may not request an advisory opinion.

Committee Preparation

There are two types of legal committee simulations that you will usually find at Model U.N. simulations:
1. Treaty-based committees;
2. Caselaw-based committees.

Treaty-Based Committees

These committees are either based around enforcement and/or implementation of a treaty (NATO, CEDAW) or are charged with creating a draft treaty for consideration by the General Assembly or for clarifying some legal conundrum (6th Committee, International Law Commission). Within the committee, delegates usually write reports, draft treaties, or resolutions. SPOTTING THE RELEVANT ISSUES is the most important skill for delegates to bring to committee. Delegates must also be able to determine what legal documents should be applied to the issues:

- Treaties
- Security Council Resolutions
- General Assembly Resolutions
- ICJ Opinions
- Preparatory Works

[1] Corfu Channel (United Kingdom v. Albania), 1948 I.C.J. 15 (Preliminary Objections).
[2] Nuclear Tests (Australia v. Fr.; N. Z. v. Fr.), 1974 I.C.J. 253.
[3] US Diplomatic and Consular Staff in Tehran (U.S. v. Iran), 1980 I.C.J. 3.
[4] Western Sahara, 1975 I.C.J. 12.

- Reports
- Statistics

These committees are most like a standard General Assembly simulation.

Case law-Based Committees

In these committees, delegates are asked to resolve a legal dispute, usually either trial of someone accused of violations of international humanitarian law or a dispute between sovereign nations before the ICJ. This is the type of committee we will be simulating.

Like treaty-based committees, the most important skill is issue spotting**.** This means understanding the core issues that the case is trying to resolve. For example, a case might be brought before the Court concerning a preemptive strike on a country that is producing chemical or biological weapons. At first glance, it would appear that the Court would only need to decide if the use of force is valid or not. However, as a subset of this issue, there are many others. The Court would need to determine what constitutes a true preemptive strike, what the role of the Security Council should be before conducting military action what constitutes self-defense and when a state should be allowed to use force to counter a threat by another state. The Court must also determine what, if any, actions should be taken by either state because of the opinion. Reading ALL of the relevant material, including the facts of the case, the statute of the Court, all memorials for the case and any available precedent will ensure adequate preparation. Delegates should also be familiar with IRAC**.** This is a system commonly used by lawyers to organize their writings. It allows the analysis to flow in a consistent pattern:

- Issue spotting
- Rule that is applicable to the issue
- Analysis or Applying the rule
- Conclusion

Delegates will IRAC for every issue presented in the case and it is important that the justices utilize this system when writing their opinions. We will discuss the IRAC method during the preparatory session prior to the start of the committee simulation.

Research Resources

Knowledge of Agenda Topics

Each Delegate should understand both the committee's function within the UN system and the issues on its agenda. The first resource to consult is the committee Background Guide. However, this guide should not be the sole source of research.

Practice in Public Speaking/Practice Simulations

You, as a delegate, should practice public speaking and presentation of policy statements prior to NMUN. Your school should organize several practice simulations to improve speaking ability and to practice the rules of procedure.

Legal Research

Begin by reading the background guide for an overview of the cases. Look at the documents cited in the background guide and the bibliography. Delegates should visit the website of the ICJ to read the Statute of the Court, the memorials, counter-memorials, and applications along with any preliminary motions made by parties to the case. YOU SHOULD PRINT A COPY OF ALL OF THE MEMORIALS, COUNTER MEMORIALS AND APPLICATIONS FOR EACH CASE, AND BRING A COPY WITH YOU TO THE CONFERENCE.

Google is your best friend! Legal research does not always involve cases and textbooks. You should complete your research for this committee in a similar manner to other committees. General search engines can help you find sources and help you narrow your research. You should also search periodicals and journals for information related to the cases and the issues included. There are also numerous legal sites on the internet for delegates. Some, like Findlaw and the University of Minnesota Human Rights Library are free to users. Others, like Lexis-Nexis, require a subscription. Many universities have accounts with research databases like Lexis that are available for use by their students.

Once delegates have spotted some of the issues for each case, they should begin applying the relevant law. Applying the law "backwards" (starting with non-binding documents, i.e. reports and resolutions) is a good way to find the applicable law. In other words, if you were looking for the law concerning Nuclear Testing, you could do a search for "Nuclear Testing" which might lead you to academic articles, news articles or organization websites that address the issues. In these materials, they will likely refer to any binding treaties or other documents for the issue, such as the Non-Proliferation Treaty or any bilateral or multilateral agreements.

Below, I have compiled a list of some of the more commonly used documents for certain types of issues:

- For Human Rights issues:
    - The Universal Declaration of Human Rights;
    - International Covenant on Civil and Political Right;
    - International Covenant on Economic and Social Rights;
    - Torture Convention;
    - Convention on the Rights of the Child;
    - Refugee Convention;
    - For Economic issues:
        - Bretton Woods Accords;
        - International Covenant on Economic and Social Rights.
- Any relevant regional or bilateral economic agreements (EU, NAFTA, Most Favored Nation Status);
    - For Humanitarian issues:
        - Statute of the relevant court;
        - Geneva Conventions;
        - Rome Statute;
        - IMT Statute;
        - Caselaw of the ICTY and ICTR.
    - For treaty interpretation, application and other relevant international legal issues:
        - Vienna Convention on the Law of Treaties.
- Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.
    - For Consular issues:
        - Vienna Convention on Consular Affairs.
    - Sources for international legal research:
        - The University of Minnesota Human Rights Library (http://www1.umn.edu/humanrts/)
        - American Society of International Law (www.asil.org)
        - The United Nations treaty database (http://untreaty.un.org/)
        - Lexis-Nexis (www.lexis.com)
        - Findlaw (www.findlaw.com)
        - GOOGLE!

The NMUN ICJ Web Page

The National Model United Nations Conference web site is a project that evolves each year to serve better Delegates, Faculty Advisors and Staff. This year, the ICJ will have a dedicated webpage to provide the most up-to-date information on the simulation and research information, as well as preparation assistance to conference participants. The conference will also provide committee topic updates on the web site. It is important that you check here to get further information on your preparation for the simulation. Please make use of this resource and do not hesitate to contact Staff members with questions or concerns.

The Role of Staff & Committee Members

Director/President

The Committee Director will have a thorough understanding of the rules of procedure and the topics under discussion in your committee. This Staff member constructs the Committee Background Guides and Update materials and, therein, will serve as the expert on questions regarding the topics before the Committee. The Director is also responsible for the procedural functions of the Committee. Working with the Under-Secretary General, he or she assures that the committee operates in a smooth and efficient manner. This requires a very thorough working knowledge of the rules of procedure and a professional presence on the dais. At the simulation the director will be know as the President of the ICJ.

Rapporteur/Vice-President

This Committee will have a Rapporteur who serves as an aide to the Director. The Rapporteur is responsible for maintaining the speakers' list, the order of the resolutions on the floor, amendments, verifying vote counts, and similar administrative matters. The Rapporteur is also called upon to assist in the preparation of final Committee reports when required. Applicants for this position should be highly organized, flexible, and possess strong writing skills. There will be a mandatory orientation session on Wednesday so Rapporteurs may familiarize themselves with NMUN Committee and Conference Services procedures. The Rapporteur will not be selected from the delegates within this committee and will be chosen by the Director/President.

Justices

A delegation, which has an ICJ Justice of the same citizenship, will be able to participate as a Justice during the simulation. The Justices will adjudicate the cases presented before them and each will write an opinion. The Justices will write preliminary opinions prior to the simulation in place of position papers. A sample preliminary opinion will be made available to the delegates prior to the submission date.

Advocates/Assessors

If a delegation has a case before the NMUN ICJ, they will be required to provide one Advocate/Assessor. The Advocates/Assessors will be responsible for the preparation of written memorials/counter-memorials, which would take the place of the position paper. Sample memorials will be made available to the delegates prior to the submission date.

Advocates will also be responsible for the presentation of oral arguments about their respective positions for their cases at the simulation. Advocates should expect to spend approximately 3 hours providing their oral arguments at their respective hearings at the conference. Guidelines for opening and closing arguments, examination of witnesses and evidence presentation will also be provided for delegates. Advocates will remain in their positions for the time in which their case is being heard. Advocate or Counsel are both terms that will be used to refer to the delegates representing the Applicants or Respondents.

When that delegate is not presenting a case, they will assume the role of Assessor for the Court. The Assessor is a non-voting objective observer that will be present during the presentation of the case and deliberations. They act to

provide and assess the legal issues that are presented before them. They are still involved throughout the process of all three cases. For each case in which a delegate serves as an assessor, they should write an advisory brief during deliberations that will serve as a consultative document for the Justices.

To summarize, the delegate preparation is two fold. One, the Advocate develops their country's legal position on the case, and prepares to argue it in front of the Justices. The other two cases would be researched thoroughly to provide their opinion on the background as an Assessor just as they would if they were a Justice.

Guidance on the Procedure of our Simulation

Case Selection

Three cases will be approved for simulation before the International Court of Justice (ICJ). The cases selected by the President (the Director), and approved by the Secretary General, will form the substance of the Court's docket. The UN General Assembly or the Security Council at any time during the conference may submit a request to the ICJ for an advisory opinion on a topic of international law during the course of the conference if the need arises. The President, in consultation with the USG and Secretary General, will review such requests.

Memorials and Preliminary Opinions

As part of the preparation for the simulation, all participants will be required to submit a position paper. Please see the section on Position Papers in this manual, and the NMUN ICJ webpage for updates and samples.

Simulation
The Justices and Advocates/Assessors will be assisted by the President of the Court and a Voce-President, who will be selected by the President.

As in the real ICJ, time limits are set for the presentation of the case. The efficiency of the oral arguments is necessary in order to facilitate the Court docket and adjudicate as many cases as possible. In addition, in order to conform to the reality of the conference, the times below expect a maximum time of 3 hours of oral argument.

Phase 1 – Convening of Court

The Justices will meet in order to open the Court. The following will occur in the order listed below:

1. The opening of the session;
2. The Administration of the Oath to the Justices by the President of the Court;
3. Set the docket of the Court;
4. Convene the first case.

All Advocates should be present at the first session on Tuesday in order to prepare for their case if it is selected first. Once the case order has been determined, the President will ask those Advocates that are not presenting to assume their role as Assessor. The President will, at this time, explain what the Assessor does and how it is different from their roll as Advocate.

Phase 2 – Opening Statements **-** (Maximum time is 15 minutes for each side)

The applicant makes the opening statement. The opening statement should provide the Justices with an overview of the applicant's case and allow for a preview of the evidence and witnesses to be presented. The Respondent will then give his or her opening statement.

Once opening statements have concluded, the Advocates, Assessors and/or Justices may motion for a suspension of the meeting if one is desired.

Phase 3 – Presentation of the Case - (Maximum time is 45 minutes for each side w/one 15 minute extension each)

The advocate for the applicant would first present the case by presenting witness testimony during which evidence will be submitted to the Court. Each may be cross-examined by the opposing advocate. If a witness is cross-examined, the applicant may then redirect. Once the applicant has rested, the Respondent would present their witnesses and evidence in a similar fashion.

Evidence:

- The permitted evidence will be provided to each side prior to the simulation, with instructions for presentation and submission.
- Advocates will be provided some discretion in determining the order and manner in which evidence will be presented to the Court.

Witnesses:

- A list of witnesses will be provided to each side prior to the simulation, with instructions for presentation and submission.
- Advocates will be provided some discretion in determining the order and manner in which witnesses will be presented to the Court.
- Witnesses will be played by members of the staff and Secretariat of the 2006 NMUN. They will provide the questions and evidence by the President prior to the simulation. Advocates will also be allowed a brief period in which to prepare the witness just prior to testimony. In order to facilitate the flow of witnesses and to provide for prep time, a brief suspension will be allowed at the conclusion of each witness's testimony.
- At the conclusion of the testimony of a witness, a Justice, subject to the approval of the President, may ask a question of the witness. Following these questions, advocates will be given a very brief opportunity to ask further questions of the witness. Due to time constraints, Justices' questions, and follow-up questions by advocates, must be kept to a reasonable minimum by the President.

Phase 5 – Evidence Examination (No Time Limit specified, although may be limited by the President if needed)

Once each side has completed closing arguments, the Respondents or Applicants will submit each piece of marked evidence to the Justices for examination during deliberations. The Justices shall then meet outside the Court to review the evidence.

Phase 6 - Justice Deliberations (No Time Limit specified, although may be limited by the President if needed)

Justices will continue to meet outside the Court to begin debate of the issues outlined in their position papers. As a group, the Justices will work toward formulating a rough list of questions that will be addressed to the Applicant and/or Respondent and need to be answered in order to work towards a final decision. These are based on their position papers, the Memorials presented by the States, and the oral proceedings that occurred. This is a time to present any major concerns or opinions, and help other Justices work through their questions.

Phase 6 - Justice Questioning - (Maximum of 60 Minutes [4 minutes per Justice] w/one 15-minute extension)

Justices will have the opportunity to ask questions of the advocates. This is where every Justice is to participate, going around the room, Justice by Justice. The President and Vice-President are to monitor the questioning and maintain order. The Justices are not to be confrontational or challenging. The purpose of these questions is to clarify issues, facts, and points of law. This is the time for Justices to go through their notes and the evidence admitted in the previous step and asks the questions they have wanted to ask. Justices should address direct questions (to one advocate or another and allowing each one to respond. Very little conversation is involved.)

Phase 7 - Closing Arguments - (Maximum of 15 minutes each side)

The respondent will summarize their case first, reviewing the evidence and witness testimony presented, reviewing their arguments, and requesting a judgment for their side from the Court. The applicant will then present his or her closing statements in a similar fashion.

Phase 8 - *Amicus Curiae* Statements - (Maximum of 5 minutes each applicant)
Amicus curiae literally means "friend of the court." Amicus are usually organizations or states that are not parties to the case, but have some interest in the outcome of the case. For example, in the *Ahmadou Sadio Diallo* case before our Court, various human rights organizations might want to submit amicus briefs and be heard by the Court. For our case concerning the application of the Genocide Convention, other states affected by the turmoil in the Balkans region may want to be included in the proceedings and have their opinions considered by the Justices.

The President, in consultation with the Secretariat, may include amicus in the proceedings of the Court. The President will provide amicus briefs to the Court and will invite a member of the Secretariat to represent the amicus party for a brief oral presentation. The President will reserve discretion in admitting or refusing amicus and is not required to allow amicus to participate in each case. Therefore,

Phase 9 – Deliberation and Judgment

At this time, the Justices will begin the deliberation phase of the simulation. The Justices will meet until they formulate an opinion. Deliberations will be closed to the conference participants, as well as Faculty. The Advocates and Assessors are also not permitted to be present during deliberations. Advocates and Assessors should begin preparations for the next case during this time.

The first thing the Justices must do is figure out the issues that need to be decided so a decision can be reached. Through discussion, Justices should find understanding in each other's opinions and reach a clear judgment. The discussion will then revolve around the applicable international law and evidence that was presented. During this time, several votes can be taken until the Justices feel they have reached a final decision and are ready to write their opinion. If there are dissentions, each must file their own opinion with the President. Once this is completed, the President will approve the documents and then the Court will reconvene to hear the next case, starting with Phase 2.

Verdicts Given
Verdicts for all cases heard will be presented at the General Session on the last day of the conference during a special ceremony. Once the opinion has been read, each Justice will be asked to sign the order of the Court.

Delegate Guide to NMUN Rules of Procedure

This guide should provide insight into the rules of procedure for National Model United Nations in two ways. The guide explains the rules in simple prose, and the explanation follows roughly the course of one week at NMUN. However, you must read the actual rules of procedure, which vary between the General Assembly, ECOSOC, and the various Specialized Agencies and Inter-governmental Organizations. The rules of procedure for each committee are included at the end of each background guide. (The Rules of Procedure of the ICJ will be made available after January 1, 2006, via the NMUN Website at www.nmun.org or via the listserv for those participating in the ICJ simulation.) Furthermore, this guide provides a generalized approach to the rules, and you must become aware of the differences that are relevant for your specific committee (e.g., some committees do not set an agenda, some consensus bodies vote once at the end of the week on one final document).
Understanding these rules of procedure will help you facilitate realistic debate and avoid extravagant use or unnecessary abuse of the rules when in committee.

Position Papers

Justices
The position papers for the Justices should not reflect their particular nation's position on the topics, but their own objective opinion based on their reading, research and assessment of the issued presented in each case. It should

identify what the facts and issues are for each case as well as what possible legal standards should be applied; describe how the standards should be applied to the particular facts; and conclude how the various issues should be resolved. It should be written with the utmost objectivity and reflect on a preliminary finding of fact and law.

The Justices' preliminary opinions should reflect:

6. A statement of facts (what are the facts of the case?);
7. A statement of the applicable law (the possible legal standards should be applied, what laws, customs, precedents or treaties apply?);
8. An application of the law to the facts (How does the law view the situation?)
9. A statement of the remedies that should be required by the Court (What should the parties do to remedy the situation?)
10. A conclusion

Advocates/Assessors

The Advocates will produce a position paper that would serve as the memorial/counter-memorial for each State-party and will outline the arguments/positions for each side. Their position papers should reflect the following, in this order:

7. A statement of facts (what are the facts of the case, as viewed in the light most favorable to your position?);
8. A statement of the applicable law (the possible legal standards should be applied, what laws, customs, precedents or treaties apply?);
9. The detailed argument section, which discusses how the law and facts apply to the particular case as well as a counter-argument to the anticipated arguments of your adversary (how do the laws and facts support your case?); an
10. An application of the law to the facts (How does the law view the situation?)
11. A statement of the remedies that should be required by the Court (What should the parties do to remedy the situation?)
12. A summary and request for remedy (what do you want the Court to do?).

Additional and Upcoming Resources

As the time approaches to the conference, there will be additional resources added to this manual through the website. These will include further explanations on the rules of procedure (made available after January 1, 2006), example memorials, further updates on the topics, as well as additional help to you on what evidence will be available, and other preparation for the simulation.

Again, it is important to remember to check periodically the NMUN ICJ Webpage for these materials, as they will impact your preparation.

INTERNATIONAL COURT OF JUSTICE BACKGROUND MATERIALS

The International Court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations.[1] It is organized in accordance with the Court's Statute, which is a part of the United Nations Charter and is open only to states.[2] The Court is composed of 15 judges, no two of whom can be of the same nationality, elected in their personal capacity.[3] The Court's seat is in The Hague, Netherlands.[4]

The Court was originally constituted pursuant to article 14 in the League of Nations Covenant as the Permanent Court of International Justice and operated from 1922 until 1946.[5] The League of Nations continued to function until 1946, however, the idea of maintaining the Court in the new United Nations Organization was incorporated in the *Charter of the United Nations*. The Court essentially remained as it was, included as a principal organ of the United Nations.

Applicable Law

The sources of international law that the Court may apply in adjudicating disputes are set forth in article 38 of its Statute:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
b. international custom, as evidence of a general practice accepted as law;
c. the general principles of law recognized by civilized nations;
d. subject to the provisions of article 59, judicial decisions and teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.[6]

The Court may also decide a case based on the principle of equity, *ex aequo et bono*, but has never applied this method in practice.[7]

The Court gives a single opinion, which is binding on the parties.[8] There is no appeal.[9] It is the responsibility of the parties to carry out the judgment of the Court. The Security Council has the power to enforce the ICJ's judgments under the United Nations Charter although it has never done so.[10] Individual judges in both the majority and the dissent may write opinions of their own.[11] French and English are the official languages of the Court.[12]

Although the Court's judgments bind only the parties to a dispute, its decisions carry great weight as they are indications of widely held interpretations of international law.

Jurisdiction of the Court

Jurisdiction of the Court is founded on consent.[13] Under article 36, section 1 of the ICJ Statute, the Court has jurisdiction over all cases referred to it by the parties and all those provided for in the UN Charter and in other treaties in force. Disputes are referred to the Court by *compromis*, or special agreement, embodying the consent of the parties to the dispute to submit the case to the Court's jurisdiction.

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[1] U.N. Charter, Art. 92.
[2] Statute of the International Court of Justice (annexed to the Charter of the United Nations) (opened for signature June 26, 1945). U.S.T.S. No. 993 (1945).
[3] *Id.*, art. 2, 3.
[4] *Id.*
[5] Versailles Treaty, Feb. 14, 1919, 225 C.T.S. 188 (entered into force Jun 28, 1919), art. 14.
[6] *Supra*, note 2, art. 38(1).
[7] *Id.,* art. 38(2).
[8] *Id.,* art. 60.
[9] *Id.*
[10] *Id.,* art. 94(2).
[11] *Id.,* art. 57.
[12] *Id.,* art. 39(1).
[13] *Supra*, note 2, art. 36(1).

The Court has also inferred consent to its jurisdiction. In the *Corfu Channel* case,[14] the unilateral application of the United Kingdom in conjunction with letters from Albania intimating acceptance of the Court's jurisdiction was deemed by the Court to constitute consent.[15]

States may also declare that they accept jurisdiction of the Court under article 36, section 2, the optional clause, which gives the Court jurisdiction over a dispute without further agreement by the parties if it involves two states who have accepted the jurisdiction on the same basis.[16] The dispute may concern treaty interpretation, questions of international law, facts that would constitute a breach of an international obligation and the nature or extent of reparations made for those breaches.[17] These declarations can be unconditional, on condition of reciprocity, subject to reservations, or time limited.[18] They may also be modified or withdrawn.[19] Many treaties specifically provide that the ICJ have jurisdiction over disputes arising from their interpretation and application.[20] If a question arises concerning whether the Court has jurisdiction, the Court itself must resolve the issue of its jurisdiction. It is not unusual for the defendant states to challenge jurisdiction.

Procedure

The procedure before the ICJ is set out in the Statute and in the Rules of the Court. It provides for both written and oral pleadings.[21] When a party fails to appear, as happened in the *Nuclear Tests* case [22] and the *U.S. Diplomatic and Consular Staff in Teheran* case,[23] the Court can decide in favor of the appearing party if it is satisfied those

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[14] Note: Corfu Channel (United Kingdom v. Albania), 1948 I.C.J. 15 (Preliminary Objections). In 1949, the I.C.J. held that a State violates international law, and thus assumes responsibility for acts within its territory, if it knows of the existence of a threat and fails to act to prevent the danger. Specifically, the court held Albania accountable for mine damage to British warships on the basis that Albania knew of the presence of the mines within its territorial waters. The I.C.J. found that the source of Albania's responsibility in the Corfu Channel Case arose from "general and well-recognized principles, namely: elementary considerations of humanity…and every State's obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States."; *Id.*

[15] Corfu Channel, 1949 ICJ REP. 4 (Judgment of April 9).

[16] *Supra*, note 2, art. 36(2).

[17] *Id.,* art. 36.

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Supra*, note 2, art. 43.

[22] Note: Nuclear Tests (Australia v. Fr.; N. Z. v. Fr.), 1974 I.C.J. 253. On June 13, 1995, the French government announced its intention to resume underground nuclear testing in the South Pacific. By August, New Zealand had initiated proceedings before the International Court of Justice (ICJ, World Court, or the Court) asking it to reexamine the legality of nuclear testing (the 1995 Nuclear Tests Case). This opportunity came twenty-one years after the issue first came before the ICJ in the 1973 and 1974 Nuclear Tests Cases**.** During that time, international environmental law had flourished, and the international community had worked its way toward the last stages of negotiation on the global Comprehensive Test Ban Treaty (CTBT). The stage was set, a new test program was about to begin, the same litigants were before the ICJ as had appeared twenty-one years earlier, and provision existed for reopening the case. What should the ICJ have done? Avoid the difficult political nature of the proceedings by legal device, as it had done in 1974, or take up the challenge and make a bold contribution to the development of international law? On 22 September 22 1995, only ten days after completion of the oral proceedings, twelve judges voted to dismiss the case. The remaining three judges argued against the majority's decision in separate, lengthy, and at times eloquent opinions. The dissent found the majority to be too reductionist and positivist in their legal method. The dissent argued that the latest nuclear testing case involved issues of critical importance to the global community and environment. Therefore, the dissent concluded that the Court had a duty to undertake a more proactive and flexible approach, one that would make "a contribution to some of the seminal principles of the evolving corpus of international environmental law."; *Id.*

[23] Note: U.S. Diplomatic and Consular Staff in Teheran (U.S. v. Iran), 1980 I.C.J. 3. On 4 November 1979, armed students seized the American embassy in Tehran and the entire staff of the embassy was held hostage. The gunmen demanded that the United States extradite the Shah and apologize for its involvement in internal Iranian politics over the past several decades. The Iranian government took no action to help gain the release of the hostages, and the Iranian minister in charge of supervising the embassy commented that, " 'this occupation is certainly positive.' " The last hostages were released after 444 days in captivity. The U.S. filed a claim before the International Court of Justice. In its judgment of 24 May 1980 the Court held: "The Government of the Islamic Republic of Iran shall…afford to all the diplomatic and consular personnel of the United States the protection, privileges and immunities to which they are

jurisdictional requirements have been met and that the claim is well founded in fact and law. The Court can also form chambers to deal with a particular category or categories of disputes.[24] A chamber is organized in consultation with the parties although the Court elects it.[25] The specific way and form in which the chamber is organized is noted in the Rules of the Court, and the Statute.

Advisory Opinions

Apart from adjudicating disputes between states, the ICJ is also authorized to give non-binding advisory opinions on legal questions when requested to do so by the General Assembly, the Security Council, or other bodies authorized by the United Nations Charter.[26] This occurred in the *Western Sahara* case.[27] Advisory opinions assist these bodies in settling specific disputes and provide authoritative guidance on points of law arising from the functions of United Nations organs and specialized agencies.[28] A state may not request an advisory opinion.[29]

The current justices of the Court are:

President Shi Jiuyong (China)
Abdul G. Koroma (Sierra Leone)
Rosalyn Higgins (United Kingdom)
Pieter H. Kooijmans (Netherlands)
Awn Shawkat Al-Khasawneh (Jordan)
Nabil Elaraby (Egypt)
Bruno Simma (Germany)
Ronny Abraham (France)

Vice-President Raymond Ranjeva (Madagascar)
Vladlen S. Vereshchetin (Russian Federation)
Gonzalo Parra-Aranguren (Venezuela)
Francisco Rezek (Brazil)
Thomas Buergenthal (United States of America)
Hisashi Owada (Japan)
Peter Tomka (Slovakia)

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entitled under the treaties in force between the two States, and under general international law, including immunity from any form of criminal jurisdiction and freedom and facilities to leave the territory of Iran…"; *Id.*

[24] *Supra*, note 2, art. 26.

[25] *Id.*

[26] *Supra*, note 2, art. 65.

[27] Note: Western Sahara, 1975 I.C.J. 12. In the Western Sahara Case, Spain contested the jurisdiction of the ICJ in an advisory proceeding because it did not consent to the matter. Spain relied on the decision in Interpretation of Peace Treaties with Bulgaria, Hungary, and Romania, First Phase ("Peace Treaties Case") and on Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) ("South West Africa Case") both of which addressed the relevance of the PCIJ holding in ICJ proceedings. In determining that it did have jurisdiction in the Western Sahara Case, the ICJ first reiterated the principle that consent is not a requirement in advisory proceedings, such as the Construction of a Wall Case, but only in contentious proceedings. Additionally, it noted that the decision of the PCIJ was premised on the fact that the party that did not consent to jurisdiction was neither a member of the League of Nations, nor a party to the Statute of the PCIJ. Based on these distinctions, the ICJ found that it did have jurisdiction in the Western Sahara Case.; *Id.*

[28] *Supra*, note 2, art. 65.

[29] *Id.*

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)

Question Presented

Did Serbia and Montenegro aid and abet, as states, the crime of genocide?

Facts

The political discord between the Croats and the Serbs is historical. With the creation of the state of Yugoslavia from the remnants of the Austro-Hungarian Empire in the wake of World War II, the two groups engaged in a political struggle within the state system as two competing national groups.[30] This struggle continued at a low level during the period of communist rule and Soviet domination.[31] In 1988, the Serbs finally secured control of government in the post-Tito Yugoslavia with the majority of votes for the Yugoslav presidency.[32]

By late 1990, as the internal conflicts surfaced, the Croatian-Serbs declared a separate Republic of Serbian Krajina and, in 1991, began the violent rebellion.[33] By 1992, the rebels controlled a large part of the newly formed Republic of Croatia (Croatia), which had been recognized by the United States and the European Union, and a cease-fire agreement was reached.[34] As armed conflict ensued, it was not until 1995 when the Republic of Croatia through Operation Flash liberated the Serbian occupied areas of Croatia.[35] Croatia met with the rebels to negotiate a peaceful settlement of the conflict, which did not materialize.[36] Croatia enacted Operation Storm following the failed negotiations.[37] Consequently, Operation Storm liberated most of the remaining rebel-controlled areas.[38]

In 1996, the Republic of Croatia and the Federal Republic of Yugoslavia reached an Agreement for Normalization of Relations.[39] Subsequently, Croatia regained control of the remainder of its territory.[40] The United Nations (UN) was not silent during this period of violence. In 1992, following this peace agreement, the UN created a peacekeeping mission to help stabilize the region (UNPROFOR).[41] The General Assembly (GA) also produced two resolutions condemning the violence. General Assembly Resolution 47/121 recognized the genocide by the Federal Republic of Yugoslavia[42] and General Assembly Resolution 49/630 condemned the ethnic cleansing by the Serb-Croats.[43] Croatia brings this case before the International Court of Justice to contest the Yugoslav response to its duties to repay for the destruction of Croatia during the violence.

Croatia contends that Serbia and Montenegro are responsible for the actions of the Serb-Croats, because they aided and supported rebels who were fighting for their states ends, and should be bound by the Agreement for Normalization of Relations to pay for the damage done by those rebels.[44]

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[30] International Court of Justice. (1999). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro).* The Hague: Author. p. 4.
[31] *Id.*
[32] *Id.*, p. 6.
[33] *Id.*, p. 4.
[34] *Id.*, p. 6.
[35] *Id.*, p. 10.
[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] United Nations General Assembly. (December 18, 1992). *The Situation in Bosnia-Herzegovina.* (A/RES/47/121). New York: Author.
[43] United Nations General Assembly. (February 9, 1995). *The Situation in the Occupied Territories of Croatia.* (A/RES/49/43). New York: Author..
[44] International Court of Justice. (1999). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro).* The Hague: Author. p. 10.

The Genocide Convention

In 1948, the world community established the crime of genocide with the Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide convention).[45] Under the convention, genocide consists of killings and other acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group."[46] The Genocide convention specifically allows prosecution of the designated crimes in both domestic and international courts.[47] Naturally, genocide itself is punishable as a crime, but the Genocide convention also separately lists the crimes of conspiracy to commit genocide, incitement to commit genocide, attempted genocide, and complicity in genocide.[48]

As William Schabas points out, "complicity is sometimes described as secondary participation, but when applied to genocide, there is nothing 'secondary' about it. The 'accomplice' is often the real villain, and the 'principal offender' a small cog in the machine."[49] However, complicity is not an offense *additional to aiding*, abetting, assisting, or any other term of facilitation one chooses to use. For example, when the United Kingdom (UK) incorporated the Genocide convention into its domestic law, it did not include a separate provision on complicity in genocide because of the redundancy of such a provision with the existing UK law on aiding and abetting.[50]

Procedural History

By an Order of 14 September 1999, the Court had initially fixed 14 March 2000, and 14 September 2000, as the time limits for the filing of a Memorial by Croatia and a Counter-Memorial by Yugoslavia.[51] By an Order of 10 March 2000, these time limits had been respectively extended to 14 September 2000 and 14 September 2001.[52] By an Order of 27 June 2000, the Court again extended the time limits for the above-mentioned written pleadings, respectively to 14 March 2001, and 16 September 2002.[53]

The International Court of Justice fixed 29 April 2003 as the time limit within which Croatia may present a written statement of its observations and submissions on the preliminary objections raised by Yugoslavia in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia).[54] The subsequent procedure was reserved for further decision.[55]

Jurisdiction

As a basis for the jurisdiction of the Court, Croatia invokes Article IX: Convention on the Prevention and Punishment of the Crime of Genocide, to which, it states, both Croatia and Yugoslavia are parties.[56] This article provides for disputes between contracting parties relating to the interpretation, application, or fulfillment of the Convention shall be submitted to the International Court of Justice.[57]

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[45] *Convention on the Prevention and Punishment of the Crime of Genocide* (opened for signature on December 9, 1949). 78 U.N.T.S. 277.
[46] *Id.*, art. 11.
[47] *Id.*, art. VI.
[48] *Id.*, art. III.
[49] Schabas, William A. (2000). *Genocide in International Law: The Crime of Crimes*. Cabridge: Cambridge University Press. p. 286.
[50] *Id.* p. 287. (citing 777 Parl. Deb.., H.C. (5th ser.) (1969) 480-509).
[51] International Court of Justice. Order of 14 September 1999. *Time Limits for the Filing of Written Pleadings.*
[52] *Id.*
[53] International Court of Justice. Order of 14 March 2000. *Extension of Time Limits for Written Pleadings.*
[54] International Court of Justice. Order of 14 November 2002. *Fixing of Time Limits within which The Republic of Croatia May Present a Written Statement of Its Observations and Submissions on the Preliminary Objections Raised by The Federal Republic of Yugoslavia.*
[55] *Id.*
[56] *Supra,* note 45.
[57] *Id.*

On 11 September 2002, Yugoslavia had filed certain preliminary objections to the jurisdiction of the Court and to admissibility.[58] Pursuant to article 79 of the Rules of Court, the proceedings on the merits were then suspended.[59]

Injurious Actions of a State against an Individual: Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)[60]

Question Presented

Did the Democratic Republic of the Congo commit grave breaches of international law against Mr. Ahmadou Sadio Diallo?

Facts

On 28 December 1998, the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by filing in the Registry of the Court an "Application with a view to diplomatic protection." The filing requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national," Mr. Ahmadou Sadio Diallo.[61]

According to the Republic of Guinea, Mr. Ahmadou Sadio Diallo, a businessperson who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State." Further, for two-and-a-half months, he was "divested of his important investments, companies, bank accounts, movable and immovable properties, then expelled." Furthermore, on 2 February 1996, as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly over mining), and by oil companies operating in that country (Zaïre Shell, Zaïre Mobil and Zaïre Fina), under contracts concluded with businesses owned by him, Africom-Zaïre and Africacontainers-Zaïre.[62]

As Mr. Sadio is a Guinean national, the State of Guinea claims a duty to uphold his rights.[63] After attempts to arrive at an out-court settlement, the Republic of Guinea has filed an Application with the International Court of Justice with a view to obtaining a finding that the Democratic Republic of the Congo is guilty of serious violations of international law committed upon the person of a Guinean national.[64]

The Republic of Guinea argues that Mr. Diallo was denied his rights as a human being and foreign national by the Democratic Republic of the Congo. These rights include the principles that foreign nationals should be treated in accordance with a minimal standard of civilization, the obligation to respect the freedom and property of foreign nationals and the right of foreign nationals accused of an offense to a fair trial on adversarial principles by an impartial court.[65] The courts of the Democratic Republic of the Congo continually upheld Mr. Diallo's rights to receive compensation from his debtors, but the government failed to act upon the courts' orders.[66]

The Republic of Guinea therefore argues that Mr. Diallo, being deprived of his assets by the Democratic Republic of the Congo's Government is entitled to reparation. The Republic of Guinea requests repayment in the amount

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[58] International Court of Justice. Order of 14 November 2002. *Fixing of Time Limits within which The Republic of Croatia May Present a Written Statement of Its Observations and Submissions on the Preliminary Objections Raised by The Federal Republic of Yugoslavia.*

[59] International Court of Justice. Rules of Court. Adopted on 14 April 1978 and entered into force on 1 July 1978. Art. 78. Found at http://www.icjcij.org/icjwww/ibasicdocuments/ibasictext/ibasicrulesofcourt_20050405.htm

[60] Note: For research purposes, delegates should note that the actual name of this case is: *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo).*

[61] International Court of Justice. (1999). *Application Instituting Proceedings: Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo).* The Hague: Author. p. 4.

[62] *Id.*

[63] *Id.*

[64] *Id.*

[65] *Id.*, p. 29.

[66] *Id.*, p. 3.

US$31,334,685,888.45 in respect to the financial loss suffered by him.[67]

Procedural History

By an Order of 25 November 1999 the Court, taking into account the agreement of the Parties, fixed 11 September 2000 as the time limit for the filing of a Memorial by Republic of Guinea and 11 September 2001 for the filing of a Counter-Memorial by the Democratic Republic of the Congo.[68]

By an Order of 8 September 2000 the President of the Court, at the request of Guinea and after the views of the other Party had been ascertained, extended those time limits to 23 March 2001 and 4 October 2002 respectively.[69] The Memorial was filed within the time limit as thus extended. On 3 October 2002, within the time limit fixed for the Counter-Memorial, the Democratic Republic of the Congo filed preliminary objections to the admissibility of the Application.[70]

Jurisdiction

As basis for the Court's jurisdiction, Guinea invoked its declaration of acceptance of the compulsory jurisdiction of the Court of 11 November 1998 and that of the Democratic Republic of the Congo of 8 February 1989.[71]

Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

Question Presented

Does sovereignty over Pedra Branca/Pulau Batu, Puteh, and South Ledge belong to Malaysia or Singapore?

Facts

The two countries have been attempting to solve this dispute for more than a decade with the first bilateral negotiations held in 1993[72] and the second in 1994.[73]. Both talks eventually broke down.[74] In 1995[75] and 1996,[76] negotiations were held to refer the case to the ICJ but were de-prioritized as Malaysia was involved in the Sipadan and Litigan dispute with Indonesia.[77] The ICJ on 17 December 2002, decided that Sipadan and Ligitan, located in the waters off Sabah, belonged to Malaysia.[78] Pulau Batu Puteh, which has an approximate area of 5 km^2, along with two adjacent rocky outcrops, Middle Rocks and South Ledge, is located 7.7 International nautical miles[79] off

[67] *Id.*, p. 37.
[68] Order of 25 November 1999. *Fixing of Time Limits for the Filing of the Memorial of The Republic of Guinea and for the Counter Memorial of the Democratic Republic of the Congo.* Found at http://www.icj-cij.org/icjwww/idocket/igc/igcframe.htm
[69] Order of 8 September 2000. *Extends Time-Limits for the Filing of the Memorial by The Republic of Guinea and for the Counter Memorial of the Democratic Republic of the Congo.* Found at http://www.icj-cij.org/icjwww/idocket/igc/igcframe.htm
[70] *Id.*
[71] International Court of Justice. *Application Instituting Proceedings: Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo).* p. 5. Found at: http://www.icj-cij.org/icjwww/idocket/igc/igcframe.htm
[72] Cook, John R. *The 2003-2004 Judicial Activity of the International Court of Justice. 98 A.J.I.L* 309. (2004).
[73] *Id.*, p. 310.
[74] *Id.*
[75] *Id.*, p. 312.
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] Note: 1 International nautical mile = 1.852 km

the state of Johor, Malaysia; however, approximately 25 International nautical miles from Singapore.[80]

Singapore first laid claim to Pulau Batu Puteh around 1979, along with two adjacent rocky outcrops - Middle Rocks and South Ledge - that are so small that they are referred to as mere "marine features."[81] The row over Pulau Batu Puteh is linked to Malaysia's Sipadan/Ligitan victory at the ICJ on 17 December 2002. That verdict was a reminder of unfinished business but more than that, it was seen as having a significant impact on this case. The judgment is relevant but not necessarily in support of Singapore's position vis-à-vis Pulau Batu Puteh, called Pedra Branca by the Singaporeans. In fact, it does not significantly affect either party's legal position.

The ICJ decision was notable for its emphasis on "effectivites" which refers to the exercise of authority in the capacity of a sovereign on disputed territory.[82] However, this does not help Singapore's case. In the judgment awarding Sipadan and Ligitan to Malaysia, the turning point was Malaysia's (and its predecessor's) administration of the islands for more than a century, without protest from any party.[83] Malaysia and its colonial ruler, Great Britain, had considered them sovereign over the islands, and behaved accordingly.[84] They made laws, enforced them, and adjudicated disputes. The authorities then never doubted that they had a legal title to the islands, dating back to the Sulu Sultanate. Indeed, it was suprising to Malaysia when the ICJ found that the treaty evidence was too vague and unspecific to confer it a treaty-based title.[85] However, in the case of Pulau Batu Puteh, the Sultan of Johor in 1844 allowed the British to construct and maintain the Horsburgh lighthouse there, solely with permission.[86] The lighthouse was completed in 1851, and is today maintained by Singapore's port authority, along with four other lighthouses.[87] Another one of these four lighthouses is also on Malaysian territory - Pulau Pisang in the Straits of Malacca.[88] In 1824, the Sultan of Johor ceded Singapore and the surrounding 10 International nautical miles to the East India Company.[89] This did not include Pulau Batu Puteh, Middle Rocks, or South Ledge. [90]

Furthermore, the ICJ has clearly stated that the construction and operation of lighthouses and navigational aids are not normally considered as a manifestation of State authority, although they may be legally relevant in the case of very small islands.[91] After the lighthouse in 1851, the next major structures to be built were the communications tower in 1989 and helipad in 1992.[92]

The ICJ, in the Sipadan/Ligitan judgment, made that clear when it disregarded all activity undertaken on the islands after the dispute had crystallized in 1969.[93] Regarding Pulau Batu Puteh, the critical date will be decided by the court.

Both countries, of course, have a large number of maps to support their case. However, as in the Sipadan/Ligitan case, maps are not necessarily the strongest evidence. Many of these maps would have been produced for specific purposes such as marine navigation and, as such, would have limited legal value for territorial disputes. Besides, not all maps would have been accurately drawn. Their legal value, states the ICJ, is that they constitute information, which varies in accuracy from case to case. They cannot constitute a territorial title; that is "a document endowed by international law with intrinsic legal force for the purpose of establishing territorial rights." Only certain maps have such legal force; for instance, those annexed to official treaties.

Both countries also have historical records. Pulau Batu Puteh, tiny as it is, is significant for its strategic position,

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[80] *Id.*, p. 315.
[81] *Id.*
[82] International Court of Justice. *Case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia v. Malaysia)* Judgment of 17 December 2002 found at http://www.icj-cij.org/icjwww/idocket/iinma/iinmaframe.htm
[83] *Id.*
[84] *Id.*
[85] *Id.*
[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] *Id.*

impact on the delimitation of territorial sea boundaries and, most of all, for national pride. This case can be expected to be more complex than the Sipadan/Ligitan matter, which, by comparison, was an easier case.

Procedural History

Contentious proceedings before the Court consist of two phases: written and oral.[94] When the proceedings are instituted by way of a special agreement, as in the present case, the provisions of that agreement govern the number and order of the written pleadings, unless the Court, after ascertaining the views of the parties, decides otherwise.[95] The Court has fixed 25 November 2005 as the deadline for submission of pleadings by both parties, including memorials and counter-memorials.[96]

Jurisdiction

On 24 July 2003, Malaysia and Singapore jointly notified the International Court of Justice of a Special Agreement, which was signed between them on 6 February 2003, at Putrajaya, and entered into force on 9 May 2003.[97] In article 2 of that Special Agreement, the parties requested the Court to determine whether sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks, and South Ledge belongs to Malaysia or the Republic of Singapore.[98] In article 6 of the Special Agreement, the parties agree to accept the Judgment of the Court as final and binding upon them.[99]

The Special Agreement is necessary because neither Malaysia nor Singapore accepts the compulsory jurisdiction of the ICJ. It spells out the dispute, and provides a period for the various legal processes such as the submission of written pleadings.

Annotated Bibliography

History of the International Court of Justice

International Court of Justice. (2005). *The International Court of Justice.* Retrieved May 30, 2005, from http://www.icj-cij.org

The website of the Court should be one of the first stops for delegates on their research exploration. On the website, delegates will find the basic documents that are required for an understanding of the Court including the Statute of the Court, the Rules of the Court and the websites for the cases. On the webpage for the cases, delegates should read the pleadings, motions and any preliminary orders the Court has made. The pleadings will elaborate on the facts of the case and the positions of the parties in addition to laying out any objections to the jurisdiction of the Court. Finally, if the parties have created a Special Agreement, it will contain the procedure to be used during the proceedings.

International Court of Justice. (1999). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro).* The Hague: Author. p. 4.

This is the application to institute the proceedings for the ICJ in this case. It is a useful tool for you to use to gain facts about the case. It also will assist you in finding the appropriate source

[94] International Court of Justice. *Charter of the International Court of Justice.* Art. 43. Found at http://www.icjcij.org/icjwww/ibasicdocuments/ibasictext/ibasicstatute.htm

[95] *Id.*, art. 40.

[96] International Court of Justice. *Order of 1 September 2003 – Time-Limits for the Filing by Each of the Parties of a Memorial and for the Filing by Each of the Parties of a Counter-Memorial.* Found at http://www.icjcij.org/icjwww/idocket/imasi/imasiframe.htm

[97] International Court of Justice. *Joint Notification to the Registrar of the International Court of Justice of the Dispute Between Malaysia and Singapore Concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge.* 24 July 2003.

[98] *Id.*

[99] *Id.*

material for your research on this case. Also found on-line at: http://www.icj-cij.org/icjwww/idocket/icry/icryframe.htm

International Court of Justice. (1999). *Application Instituting Proceedings: Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo).* The Hague: Author. p. 4.
This is the application to institute the proceedings for the ICJ in this case. It is a useful tool for you to use to gain facts about the case. It also will assist you in finding the appropriate source material for your research on this case. Found at: http://www.icjcij.org/icjwww/idocket/igc/igcframe.htm

International Court of Justice. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo). Found at: http://www.icjcij.org/icjwww/idocket/imasi/imasiframe.htm
This is the application to institute the proceedings for the ICJ in this case. It is a useful tool for you to use to gain facts about the case. It also will assist you in finding the appropriate source material for your research on this case.

American Society of International Law. *ASIL Guide to Electronic Research for International Law.* Found at: http://www.asil.org/resource/iel1.htm
This book gives you an overview of electronic sources that are available to you in international law. There are listings of sources for international, regional and NGO websites; as well as government agencies. It will provide a comprehensive source of information for legal research.

Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277.
The Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the UN General Assembly in December 1948 and came into effect in January 1951. It defines and outlaws genocide, because of campaigning by Raphael Lemkin who had coined the term some years earlier. The total number of state parties is 133. The convention was passed in order to outlaw actions similar to the Holocaust by Nazi Germany during World War II. Because the convention required the support of the Soviet Union and the Communist bloc, it excluded actions undertaken by those nations. As a result, the convention excludes from the definition of genocide the killing of members of a social class, members of a political or ideological group, and that of cultural killings. All participating countries are required to prevent and punish actions of genocide in war and peacetime.

Cook, John R. *The 2003-2004 Judicial Activity of the International Court of Justice. 98 A.J.I.L* 309. (2004).
These annual updates are published by the American Journal of International Law and are widely regarded for their synopsis and analysis of current activities of the court. Although not all cases are included, delegates should look to these for reviews of the major issues included in cases that are reviewed. These articles should never be substituted for a reading of the memorials and other materials related to the cases.

Damrosch, Lori. F., Henkin, Louis, Pugh, Richard Crawford & Smit, Hans. eds. (4th. ed. 2001). *International Law: Cases and Materials.* St. Paul. West Group.
This casebook is one of the most widely utilized international law texts and is authored by five of the most well known and universally respected professors of international law. In the text, delegates will find virtually anything they will need to know relating to the applicable law of any of the three cases. The text covers topics including public international law, human rights, international humanitarian law, and law of the sea. It also contains the texts, or selections from the texts, of the most often used international treaties, covenants, declarations, and resolutions.

Henkin, Louis, Neuman, Gerald L., Orentlicher, Diane F. & Leebron, David W., eds. (1999). *Human Rights.* New York. Foundation Press.
This collection of human rights law covers both international and municipal contexts and is considered the best human rights law text currently on the market. The book covers remedies provided by the major international human rights instruments and the role of non-legal

institutions. There is also a documentary supplement to this book that contains the full text of all major human rights law instruments.

Jackson, John H., Davey, William J. & Sykes, Jr., Alan O., eds. (4th. ed., 2002). *International Economic Relations: Cases, Materials and Text.* St. Paul. West Group.
In this text, the authors aim to offer the student the means to achieve a basic understanding of the international economic system as it operates in real life, and as it is constrained or aided by a number of fundamental legal institutions, including national and international constitutional documents and processes. This is an excellent resource for delegates when researching international economic legal problems. It contains excerpts of most of the major legal texts needed to solve issues of international economic law.

Janis, Mark W. (2003). *An Introduction to International Law.* New York. Aspen Publishers.
This book is strongly recommended. This concise, "nutshell" book is highly regarded for its clear and straightforward presentation of the basics of international law. Although all of the books on this list are excellent resources, if I could have every delegate obtain a copy of this book prior to the conference, I would. It contains short summaries of major principles and cases and is a good quick-reference and a way to learn a lot about international law in a short amount of time. Furthermore, it contains useful updates from significant developments such the implications of September 11th such as the rules of engagement when the enemy is a non-state actor, coverage of the International Criminal Court and the growing importance of "soft law" and non-state actors, as demonstrated by public interest participation and scientific consensus in the development of treaties and policy.

Schabas, William A., *Genocide in International Law: The Crime of Crimes*. 286 (2000).
The 1948 Genocide Convention has suddenly become a vital legal tool in the international campaign against impunity. In this work Professor Schabas focuses on the judicial interpretation of the Convention, debates in the International Law Commission, political statements in bodies like the General Assembly of the United Nations, and the growing body of case law. Detailed attention is given to the concept of protected groups, to the quantitative dimension of genocide, to problems of criminal prosecution including defenses and complicity, and to issues of international judicial cooperations such as extradition. He also explores the duty to prevent genocide, and the consequences this may have on the emerging law of humanitarian intervention.

Scharf, Michael P., ed. (2001). *The Law of International Organizations.* Durham.Carolina Academic Press.
This problem-oriented book will expose delegates to the most significant current legal issues relating to international organizations. Each chapter begins with a roll-play exercise or simulation in the form of an introductory problem, which places the subsequent material (excerpts from international conventions, negotiating history, decisions by international organizations, international and domestic judicial opinions, diplomatic correspondence, and scholarly articles) in a realistic context. The book is organized into twenty-two chapters. Although it covers issues relevant to many kinds of international organizations, the book focuses mainly on international organizations that are within the U.N. system, including the U.N. Secretariat, General Assembly, Security Council, Sanctions Committee, Credentials Committee, International Court of Justice, Human Rights Commission, International Financial Institutions, and International Criminal Tribunals.

United Nations General Assembly. A/RES/47/121. *The Situation in Bosnia Herzegovina.* December 18, 1992.
On 20 December 1992, with this resolution, the General Assembly expressed outrage at the systematic use of rape as "a deliberate weapon of war in fulfilling the policy of 'ethnic cleansing' carried out by Serbian forces in Bosnia and Herzegovina." This document further explicitly states the General Assembly considered "the abhorrent policy of 'ethnic cleansing' to be a form of genocide."

United Nations General Assembly. A/RES/49/43. *The Situation in the Occupied Territories of Croatia*. February 9, 1995.

With this resolution, the General Assembly sought to reunite Croatia and continued to monitor the ceasefire that had been implemented. More importantly, the UN requested the Secretary General monitors the situation and report to them with an in-depth analysis of the situation in the Balkans.

von Glahn, Gerhard, ed. (6th ed. 1996) *Law Among Nations: An Introduction to Public International Law*. Boston. Allyn and Bacon.

This text is designed for courses in Public International Law. This edition has been significantly revised and updated to reflect the post-cold war international scene and offers comprehensive, up-to-date treatment of the major aspects of international law. Unlike some of the other texts, which may be harder to find outside of the United States, this book is widely available in Europe and many other regions.

PLEASE NOTE:

THE RULES OF PROCEDURE FOR THE INTERNATIONAL COURT OF JUSTICE (ICJ) COMMITTEE WILL BE MADE AVAILABLE TO THOSE PARTICIPATING IN THE COMMITTEE AFTER
JANUARY 1, 2006.

FOR QUESTIONS CONCERNING THIS ISSUE, PLEASE CONTACT THE DIRECTOR-GENERAL, KEVIN E. GRISHAM AT DIRGEN@NMUN.ORG.