

HOW TO WRITE A MEMORANDUM

INTERNATIONAL COURT OF JUSTICE COMMITTEE – Hamburg Model of United Nations 2017

Before writing it

Proper research is the most important aspect of the legal writing process, and it should always be thoroughly accomplished prior to sitting down to write a legal memorandum. The next step is to settle on a format.

The Chairs strongly encourage you to read the study guide. We expect you to be confident with its content.

The structure

The written proceedings shall be conducted by the submission of memorials, supporting documents, evidence, list of questions and counter-memorials.

*A **Memorial** shall contain a statement of the relevant facts, a statement of law, and the submissions.*

Statement of relevant facts:

- The statement of relevant facts is a legal document which defines the case's situation and sets down factual information in a non-argumentative way.
- Legal statements are prepared by both the prosecution and the defence. The document requires a professional, non-argumentative tone and is devoid of exaggerations and fabrications.
- Lawyers may make implicit arguments in the document, using a variety of tricks to sway the reader to one point of view or another. Typically, these arguments are designed to paint someone in a favourable light, or to dismiss the reliability of someone else.
- Do not provide any facts that can be used to the advantage of the other party. It is the other party's responsibility to establish an opposing point of view.

Statement of law

- In the statement of law, you should remark the articles, conventions and legal procedures that support your State's actions
- Ensure your argument is strong and brings out potholes in the information provided by the opponent.
- You can include facts on the terms and conditions that set out the legal field for the statement and the resulting penalties and punishments related to the legal matter.
- Make a conclusion on any developments made in regards to finalizing the matter or the action decided upon.
- Ensure the conclusion touches on the innocence or regret of the party and declaration to avoid related future behaviour.

Submissions

- The submissions are an agreement by which States name the Court to decide the matter, and bind themselves reciprocally to perform what shall be arbitrated.
- A submission does not have to be long. You can concentrate on the aspects of the review you really want to comment on, and leave out other parts.
- Your submission will be more compelling if you use strong and direct statements to put forward your case, i.e. 'the legislation should be amended to include ...', rather than 'it is submitted that the government should consider making changes to the legislation.'
- It is often a good idea to use section headings and paragraph numbers or a table of contents to add structure and clarity to your submission

A Counter-Memorial shall contain a statement of relevant facts, a statement of law and the submissions.

Statement of relevant facts

- The statement of relevant facts is a legal document which defines the case's situation and sets down factual information in a non-argumentative way.
- Legal statements are prepared by both the prosecution and the defence. The document requires a professional, non-argumentative tone and is devoid of exaggerations and fabrications.
- Your statement of relevant facts should include an admission or denial of the facts stated in the Memorial and any additional facts, if necessary

Statement of law

- In the statement of law, you should remark the articles, conventions and legal procedures that support your State's actions
- Ensure your argument is strong and brings out potholes in the information provided by the opponent.
- You should make observations concerning the statement of law in the Memorial, accepting or denying the relevant law that they are using against you
- You should make a statement of law in answer thereto

Submissions

- If your submission is in response to an inquiry, check if there are terms of reference. If there are, try to frame your comments around them
- Try to address these terms of reference in order, even if you do not answer every one
- If the terms of reference or the questions miss key issues you should say so, but try to do it in a clear and succinct way
- It is often a good idea to use section headings and paragraph numbers or a table of contents to add structure and clarity to your response

*A **judgement** shall contain an Advisory Opinion, Separate Opinion and Dissenting Opinion (if any). All Judges shall participate in the drafting of one of the three types of opinions. All opinions shall be completed by the adjournment of court.*

Advisory Opinion

- Judges in the majority shall draft the Advisory Opinion of the Court.
- Judges are also free to work with Counsels. Confidentiality should be strictly observed and any assistance of the Counsels shall be sought without the voting outcomes being revealed.
- The Advisory Opinion shall contain:
 1. The names of the judges participating;
 - *In the case of Legality of the Use of Force (Yugoslavia v. US), the International Court of Justice, sitting as a Grand Chamber composed of: (name of the judges)*
 2. The date on which it is delivered;
 - *Having deliberated in private on (date), delivers the following judgment, which was adopted on the last-mentioned date:*
 3. A summary of the proceedings;
 4. A statement of relevant facts:
 - The goal of a statement of facts is not to put forward an argument, but rather to present factual information in a clear, easy to understand way.
 - Remember that you should be impartial.
 5. The reasons in point of law;
 - It is important to write the statement in a manner that is legally correct and clearly states out the legal facts of the issue.
 - Write down all the information clearly in simple language and include your main points and conclusions.
 - Provide a brief explanation of the connections between the relevant facts and the statement of law.
 - Make it definitive. Remember that you need to include your final decision regarding the case.
 6. The number and names of the judges constituting the majority;

Separate opinions

- Separate opinions may be written by Judges of the majority who adopt a different legal reasoning for their verdict.
- You should include the date on which the separate opinion is delivered; the names of the judges participating; a summary of the proceedings; a statement of the facts and the reasons in point of law.

Dissenting opinions

- Dissenting judges shall draft dissenting opinions to record the rationale for their disagreement with the verdict.
- Such dissenting opinions may be written by collaborating with other dissenting judges.

- You should include the date on which the separate opinion is delivered; the names of the judges participating; a summary of the proceedings; a statement of the facts and the reasons in point of law.