

International Tribunal for the Law of the Sea

Rules of Procedure

Hamburg Model United Nations

“Shaping a New Era of Diplomacy”

28th November – 1st December 2019



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The **International Tribunal for the Law of the Sea**,

Guided by the Statute of the International Tribunal for the Law of the Sea,

Applying Article 30 of the Statute,

Defines the following procedure:



I. The Tribunal

1. Introduction

Art. 1 The following rules apply to the International Tribunal for the Law of the Sea (hereinafter ITLOS or Tribunal) of Hamburg Model United Nations (HamMUN) 2019, and are to be considered adopted in advance of the sessions. It is therefore of crucial importance for all participants to understand the rules of procedure and abide by them for the duration of the conference. The actual ITLOS naturally runs very differently; however, please note that at HamMUN 2019 the Rules of Procedure presented below take precedence. Abidance by these rules, and thorough knowledge thereof, are a prerequisite for the success of the conference. English is the only official and working language of this Court. It should be used at all times during Court sessions.

2. Composition of the Tribunal

Art. 2 The Court shall consist of the following Members:

In case proceedings

- Two co-presidents (co-Chairs)
- 12 agents, four for each of the two main parties and two for each of the minor parties
- 4 judges

In advisory proceedings

- Two co-presidents (co-Chairs)
- 16 judges

3. The Presidency

Art. 3 The Presidency of the Tribunal shall consist of the two Presidents, the co-chairs. They entertain equal authority in front of the Tribunal and their cooperation is governed by internal rules applicable to Staff members, as defined by the Secretariat. Any reference to the “President” hereafter includes the members of the Presidency.

In the exercise of their functions stated hereafter, the President is subject to these rules and are responsible to the Secretary General.



These rules are an annex to the conventional rules of procedure of HamMUN 2019, which remain in force except where this annex provides otherwise.

The President will have complete control of the proceedings at any formal meeting and ensure the adherence to these rules. In particular, the President will declare the opening and closing of each meeting, direct discussion, accord the right to speak, put questions, announce decisions, and rule on points of order. The President may also propose the adoption of any procedural motion to which there is no significant objection. In case of disruptive or dilatory behaviour of any participants, the President reserves the right to take appropriate measures. The President may direct discussion to a limited extent at their discretion, but the expectation is that the debate will be led by the participants and not the President.

In case of a procedural issue not covered by these rules, the President will make a decision that is considered compliant with the spirit of these rules. In this event, the President will announce to the council the use of this rule. Decisions taken by the President under this rule can be subject to appeal.

A delegate may immediately appeal any decision of the President by raising a motion, with the exception of those matters that are explicitly stated to be unappealable within these rules. The President may speak briefly in defence of the ruling. The appeal will then be put to a vote, and the decision of the President will stand unless overruled by a two-thirds majority of those members present. This is a procedural vote, and thus all members present must vote.

One of the President's duties is to moderate speaking time, and as such they will gavel during speeches to indicate remaining time, and the elapse of speaking time. The President will indicate at the start of the conference at what interval they will gavel, and Delegates who are confused should raise a Point of Parliamentary Inquiry.

4. The Judges and Agents

Art. 4 Each participant will represent a judge of the ITLOS or an agent of a country involved in the case discussed. Judges of the ITLOS will irrespectively be afforded one vote. Agents will not be able to vote on any substantial votes.

Judges and agents are obliged to attend all sessions



Judges and agents are expected to have carefully read these rules of procedure, and to have thoroughly prepared for every session.

The dress code for the conference is business attire. In the event of a judge or an agent wearing inappropriate attire, the President has the right to take appropriate measures.

Judges and agents will stand to speak whenever recognised by the President.

It is not in order to bang the table, clap, call out or in any way acknowledge agreement or disagreement with another Judge's or agent's speech when not recognised by the President.

Judges and agents are expected to use courteous and respectful language towards the President and their fellow judges and agents at all times, and to refrain from using slang and offensive language during debate.

In order to receive a certificate confirming their participation at the conference, each judge and agents must attend at least 80% of all sessions.

II. Procedure

1. Judgement

Art. 5 Before deliberations start, each party to the case shall submit a memorandum or counter memorandum to the presidency, based on the Study Guide.

The applicant shall submit a memorial to the presidency including the following points:

- (1) a statement of the relevant facts
- (2) a statement of law
- (3) and the submissions.

The defendant shall submit a counter-memorial to the presidency including the following points, based on the Study Guide:

- (1) an admission or denial of the facts stated in the memorial;
- (2) any additional facts, if necessary;
- (3) observations concerning the statement of law in the memorial;
- (4) a statement of law in answer thereto;
- (5) and the submissions.



The parties wishing to intervene in the case shall apply for intervention including the following points:

- (1) the interest of a legal nature which the State Party applying to intervene considers may be affected by the decision in that case;
- (2) the precise object of the intervention.

Art. 6 The Judges shall submit a written note based on their preliminary legal assessment of the case based on the Study Guide.

2. Advisory Opinion

Art. 7 The judges shall submit a written note based on their preliminary legal assessment of the legal question submitted for an advisory opinion.

III. Proceedings Before The Tribunal

1. Judgement

1.1. Oral Statement

Art. 8 The oral statement is the first statement of the agents to the Tribunal. The statement shall be based on the memorial, counter-memorial or application for intervention submitted to the Tribunal. The parties of the case shall hold an opening statement of 10 minutes defending their side of the case.

Art. 9 The Judges shall hold an opening statement of 2 minutes based on their preliminary legal assessment and on the oral statement of the parties to the case.

1.2. Deliberations

Art. 10 During deliberations, the Tribunal shall adopt a format of consultation of the agents and unmoderated caucuses, to govern the debate. Any motions calling for a caucus shall be subjected to a vote in accordance with Articles 20-22 of these Rules of Procedure.

Art. 11 In consultation of the agents, agents representing one or multiple parties will be consulted by the judges and asked questions about the facts of the case, the application of an article, convention or other legal source to the case. Only judges can raise a motion for a consultation of the agents. To bring forward a



consultation of the agents, a judge will have to specify the duration, speakers time and purpose of the consultation. This motion is subject to seconds and objections but is not debatable During the consultation of the agents, there will be no speakers' list. The President will call upon judges to ask questions to the agents, which then have to answer. The President will ask the judge that brought forward the motion whether they wish to speak first.

Art. 12 The unmoderated caucus follows Rule 5.6 of the HamMUN Rules of Procedure. The Judges have the right to request to withdraw in order to consider the judgement during an unmoderated caucus.

Art. 13 In case of multiple motions, the unmoderated caucus will be voted before the consultation of the Agents and motions for a longer unmoderated caucus or consultation of the agents will take precedence in the vote.

2. Advisory Opinions

Art. 14 The Judges shall hold an opening statement of 2 minutes based on their preliminary legal assessment.

Art. 15 During deliberations, the Tribunal shall adopt a format of unmoderated and moderated caucuses, as respectively set out in the Articles of the General Rules of Procedure, to govern the debate. Any motions calling for a caucus shall be subjected to a vote in accordance with Articles 20-22 of these Rules of Procedure.

IV. Judgement, Dissenting Opinions and Declarations

Art. 16 Judges in the majority shall be expected to write the Judgement or Advisory Opinion, which should consist of the following elements:

- (1) The date on which it is delivered,
- (2) The number and names of the judges constituting the majority,
- (3) A summary of the proceedings before the Tribunal,
- (4) A statement of the relevant facts,
- (5) The legal reasoning determining the final outcome,
- (6) The outcome.



Art. 17 Dissenting Opinions may be written by dissenting judges, explaining their disagreement with the verdict. A Dissenting Opinion can disagree with the Judgement or Advisory Opinion as a whole or with part of it. Multiple Dissenting Opinions may be written. Dissenting Opinions should consist of the following elements:

- (1) The Judgement to which it is appended,
- (2) The name of the author(s)
- (3) The legal reasoning determining the dissent or concurrence with the majority position.

Art. 18 Declarations may be written by judges to explain their opinion on the judgement. A Declaration doesn't disagree with the verdict, but the judge writing it

- (1) The Judgement or Advisory Opinion to which it is appended
- (2) The name of the author(s)
- (3) The Declaration of the author(s) states dissent or concurrence without stating a legal reason.

Art. 19 All opinions and declarations will be expected to be written by the end of the deliberations, in order for them to be annexed to the majority decision.

Art. 20 Deliberations will last until a motion to close deliberations is proposed. This procedural motion will be subjected to a vote, according to the principles set out in Articles 20-22 of these Rules of Procedure.

V. Quorum, Attendance and Roll Call

Art. 21 At the beginning of each session, the President will conduct a roll call in alphabetical order. Judges and Agents shall establish their presence in the Tribunal by declaring themselves "Present". Judges may vote in favour, against or abstain on any substantive matter.

Art. 22 If a Judge or an Agent arrive during or after the roll call, they are required to send a note to the President, stating that they are present. As long as judges have not informed the President of their arrival, they will not be allowed to vote on procedural or substantive votes or deliver a speech. All judges who have not informed the President of their arrival until voting procedure begins are not eligible to vote on procedural or substantive votes or speak. As long as Agents have



not informed the President of their arrival they will not be allowed to vote during procedural votes or deliver a speech.

Art. 23 Simple majority is derived from the roll call as it is taken at the beginning of every session. Judges and Agents are requested to notify the President in case of an urgent need for abstention from the proceedings of the Tribunal in order to modify the respected numbers. In case majority numbers have changed, the President will announce the new numbers before any voting on any matter occurs.

Art. 24 If a judge who has declared themselves “Present” during the roll call is not in the room during voting procedure on a substantive matter, their status is immediately changed to “Not Present” by the President in order to avoid a stalemate in the proceedings. This is not accounted as abstention in voting.

Art. 25 Activities of the Tribunal shall start when at least nine (9) the judges are present. If quorum is not met within fifteen (15) minutes after the scheduled starting time of the session, the Tribunal shall proceed with the number of judges present irrespective of the number of judges present. Quorum shall be assumed when Tribunal activities begin. The quorum may be challenged by any Judge when he or she observes it may be lacking.

Art. 26 The President may at any time, and especially before entering voting procedures, revisit the quorum at their own discretion.

VI. Setting the Agenda

Art. 27 At the beginning of the first session and immediately after the roll call, the Agenda will be set by the Tribunal.

Art. 28 The Tribunal will first have to decide which of the main claims or questions takes precedence and within that context devise a logical series of conditions and tests to be verified. During this process the Tribunal shall consider which claim, when answered, would render any subsequent debates or findings irrelevant.

Art. 29 The order of the agenda set at the beginning of the conference shall remain for the duration of the conference. If judges wish to revisit the Agenda at a later time, they can request to do so after a topic has either been completed and all substantive matters voted on or if a topic has been tabled. The relevance of



such a motion shall remain at the discretion of the President. The request to revisit the Agenda is a procedural matter.

VII. General Speakers' List

Art. 30 As soon as the Agenda has been set, a General Speakers' List is opened for the purpose of general debate on the topic selected. This General Speakers' List will remain open for as long as the topic is being discussed. The speaking time when in the General Speakers' List is determined by the President.

- (1) The President will call to order any judge exceeding the allotted time for a speech.
- (2) When the General Speakers' List is exhausted and no more judges wish to be added to it, debate on the topic automatically closes, and the council moves into voting procedure on the topic. If no Judgements/Advisory Opinions have been introduced, the council will immediately move to the next topic on its Agenda.
- (3) A General Speakers' List for a different topic on the agenda may not be opened until the council has moved to that topic. If a topic is tabled, the General Speakers' List is not maintained, but will be reopened when the topic is returned to.

VIII. Procedural Vote

Art. 31 *Procedural Matters*: Procedural matters are those matters relating to the structure of the Tribunal session, as well as the issues of the case, which do not evoke the merits, including, but not limited to the order in which the Tribunal discusses issues, the time allowed for the judges to present their statements/ questions, suspending the meeting etc. All judges and agents must vote on procedural matters and no-one may abstain. Where judges or agents fail to vote, the vote will be retaken until such a time as all judges and agents in the room have voted. Roll Call votes are not in order for procedural matters.

Art. 32 The following procedural motions shall be decided by a two-thirds majority:

- (1) Motion to set the discussion on one of the docket cases
- (2) Motion to set a general speaker's list/ unofficial tour de table/ opening of discussion



- (3) Motions to close deliberations and move to substantial voting procedure,
- (4) Motions to close the session of the Tribunal.

Art. 32 The following procedural motions shall require a simple majority:

- (1) Motion to adjourn the meeting for lunch etc.
- (2) Motion for a consultation of the agents during the stage of deliberations
- (3) moderated caucus during the stage of deliberations,
- (4) Motion to extend a consultation of the agents, a moderated or an unmoderated caucus (no longer than the half of the original and cannot be extended twice)
- (5) Motion for an unmoderated caucus during the stage of deliberations,
- (6) Motion to admit contested evidence to the case.

IX. Substantial Vote

Art. 34 *Substantive Matters*: Substantive matters are those matters relating to the merits of the case. Judges that have established their presence at the initial roll call may vote for, against, or abstain. Agents do not have the right to vote and may leave the room of the tribunal during substantial votes.

Art. 35 Following a successful motion to close deliberations, the Tribunal shall proceed to a substantive vote to determine the verdict of the case. This vote will require a simple majority.

Art. 36 In the case that no majority is found though a substantive vote, the Tribunal shall automatically reopen deliberations.

X. Chambers

Art. 37 The Tribunal may from time to time form one or more chambers, composed of three or more judges as the Tribunal may determine, for dealing with particular categories of cases. The Tribunal may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Tribunal with the approval of the President.



XI. Representatives of Other Councils and Other Experts

Art. 38 Where appropriate, Judges may ask for a representative of another council or committee convening under the auspices of HamMUN 2019 to address their council and express an opinion on an issue. Such a request must be handed to the President in written form, thoroughly explaining the reasons for this action. It is at the discretion of the President to accept such a request, and their decision on this matter is not subject to appeal.

