

# Writing preambles

Imperium Anglorum\*

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The preamble in a proposal is the first thing that most people will read when they read your proposal. These are a few thoughts on preambles. Some of this content is adapted from a draft of a forthcoming book-length guide on the World Assembly I am writing.

There are two classes of preamble clauses:

1. argumentative preambles and
2. legality covering preambles.

But before covering them in-depth, I want to note that preambles are not always necessary. A preamble can become unnecessary if a policy is intuitively good. More rarely, a preamble can become an active hindrance if space is extremely tight.<sup>1</sup>

## Argumentative preamble

With an argumentative preamble, the main purpose is informing and convincing a general audience that the operative portions below the preamble are worth enacting. There are three stock issues that are worth covering:

1. establishing a problem needs solving,
2. showing a problem is of international import, and
3. arguing that a specific policy is a good idea.

A problem that does not need solving is one that does not require legislation. A problem that is not of international import does not require *World Assembly* legislation. And a policy that is bad need not be enacted.

I want also to preface in this section that explicitly engaging with the stock issues is only necessary if the reasons why a proposal fits those stock issues are not easily intuited.

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<sup>1</sup> Eg GA 531 ‘Tariffs and Trade Convention’, in which the preamble consists solely of a pro forma assertion that ‘free and fair trade is good’.

There are two elements to establishing that a problem needs solving. The first is the harm and the second is inherency.

For example, consider stateless persons. The harm is that stateless persons are stripped of their legal rights – including things like the right to live somewhere, to work in a jurisdiction, or to receive benefits<sup>2</sup> – generally for discriminatory reasons.<sup>3</sup> The plight of stateless people inheres to the world – it is not going away – because the people to which those stateless people can turn are usually the same people who are stripping them of their rights. This is compounded when stateless people are also unable to procure acceptable travel documents, meaning they cannot escape the state that stripped them of their rights in the first place.

Showing a problem is of international importance can be gone about in a similar fashion. Most problems that inhere to the world are ones that will not be solved by a state. Most problems not solved by states will not be solved by multilateral action. International issues generally fit two moulds: (1) they are cross-boundary, ie their impacts are not confined by borders, or (2) states as a whole will not act to fix them.<sup>4</sup>

There are many ways to argue a policy is a good idea. A clear framework for arguments in general, however, is a claim-warrant-impact framework: state the claim clearly, then the warrant, and then the impact. The claim must be clear to be comprehended. The warrant must be present if one is to believe the argument. And the impact is needed to understand why the argument matters.

Separately, policy arguments can take a political form. Eg branding a proposal as a compromise that balances certain concerns in an equitable manner or that some proposal is the only real path forward. Such arguments are valuable, especially in politically contentious situations.

Putting the arguments to pass the proposal in the proposal is a powerful tool which authors should not dismiss lightly. A good preamble is not normally read by General Assembly regulars; but free space for advertising a proposal should not be ignored lightly.

<sup>2</sup> The combination of forced displacement, prohibition on legal employment, and lack of state support forces stateless people into poverty and starvation.

<sup>3</sup> Eg a belief that persons of a certain ethnic, religious, or cultural group are uniformly illegal immigrants or subversives.

<sup>4</sup> This usually takes a form of a collective action problem where a harm occurs but that harm does not fall on potential solvers or otherwise is so weak that it does not compel those potential solvers to act.

## Legality covering preambles

The second class of preamble clause is made for legality purposes. The Secretariat, and the moderators before them, have always preferred to rely on preambles to make decisions in under substantial subjectivity.<sup>5</sup>

For example, a proposal regulating the price of corn might be blocked under GA 68 ‘National Economic Freedoms’ (hereinafter NEF), which ‘requires that no commerce be generally restricted by the WA unless ... the enterprise causes an extreme hazard to national populations’. Under current and prior precedents,<sup>6</sup> the way an author can sidestep NEF’s provisions is to add a clause such as:

Believing that wild fluctuations in the price of corn pose an extreme hazard to national populations due to resulting swings in the cost of sufficient nutrition...

This kind of activity passes through to matters relating to GA 35 ‘Charter of Civil Rights’ and GA 17 ‘WA General Fund’. For example, in GA 499 ‘Access to Abortion’ (2020), there is this line in the preamble:

And whereas discrimination in state policy or administration of tax on abortion recipients and providers is unfair and grossly unjust:

The purpose of this line is to slot the proposal into the exception for GA 17 s 8, which ‘affirms the right of member nations to maintain full authority over domestic taxation policies, *barring those that may include unfair discriminatory practices*’.

An older, explicit, and moderator-supported example comes in *Responsible Armaments Trading* (2014) 1 IAM 25, where Ardchoille rejected a legality challenge from the bare assertion of an ‘extreme hazard to national populations posed by the unregulated trade of weapons and armaments’.

Assertions in the preamble also provide cover against legality challenges on duplication and category. The version with duplication is very analogous:

<sup>5</sup> Eg ‘GenSec is unwilling to make factual policy findings as to what objectively constitutes an extreme hazard’. *Agricultural Invasive Species Act* [2018] GAS 4.

<sup>6</sup> *Agricultural Invasive Species Act*, supra; *Ethics in International Trade* (2010) 1 IAM 8 (‘[If the] proposal itself [were] to tell us that the legality requirements were met ... [t]hen the GA itself can consider the point, rightly making that question part of the debate’).

simply assert that no duplication exists.<sup>7</sup>

The version with category is slightly more difficult, as statistical effects are generally conceived holistically. But past guidance is that an explicit assertion usually suffices.<sup>8</sup> While it is clear that word-for-word repetition of some ‘magic words’ are not needed with contradiction and duplication,<sup>9</sup> recital of ‘magic words’ in category litigation.

For example, with a category description reading as follows:

Regulation: Consumer Protection...Increasing *consumer rights*, product standards, accurate labelling, and *legal recourse* for consumer David against the corporate Goliath.

It can be strategic to phrase a preamble repeating some keywords, like so:

Considering that [the proposed regulations] would help improve *consumer rights* and that further action is herein taken to expand *legal recourse* against violators of those rights...

These various ways of using the preamble as a shield in legality challenges help to provide cover in the event of troublesome legality challenges. There are limits to the extent to which any assertion goes.<sup>10</sup> But those limits are relatively loose. Regardless, being able to create cover against legality challenges is a useful tool for any author.

<sup>7</sup> Eg GA 474 ‘Financial and Economic Education’: ‘Recognising...GA 80 "A Promotion of Basic Education" which establishes a requirement for member nations to give their citizens knowledge or awareness [of financial concepts] and ... Convinced that simply being aware of [financial concepts...] is insufficient’.

<sup>8</sup> *Preparing for Disasters* (2010) 2 IAM \_\_.

<sup>9</sup> ‘AISA does not argue explicitly that the enterprise causes an extreme hazard to national populations, but the preamble...toes the textual minimum’. *Agricultural Invasive Species Act*, supra.

<sup>10</sup> *Agricultural Invasive Species Act*, supra.