

The International Criminal Court – ICC

The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression

International Criminal Court (ICC), permanent judicial body established by the Rome Statute of the International Criminal Court (1998) to investigate, prosecute, and try individuals accused of genocide, war crimes, and crimes against humanity and to impose prison sentences upon individuals who are found guilty of such crimes. On July 1, 2002, after the requisite number of countries (60) ratified the agreement, the court began sittings. It is headquartered in the Netherlands at The Hague.

The ICC was established as a court of last resort to prosecute the most heinous offenses in cases where national courts fail to act. Unlike the International Court of Justice, which hears disputes between states, the ICC handles prosecutions of individuals. The court's jurisdiction extends to offenses that occurred after July 1, 2002, that were committed either in a state that has ratified the agreement or by a national of such a state. 15

Although the Rome Statute was widely praised (some 140 countries had signed the agreement by the time it entered into force), few countries in the Middle East or Asia joined. Further, by 2002, China, Russia, and the United States had declined to participate, and the United States had threatened to withdraw its troops from United Nations peacekeeping forces unless its citizens (both military and civilian) were exempted from prosecution by the ICC. Nevertheless, within five years of its first sitting more than 100 countries had ratified the treaty. All member countries are represented in the Assembly of States Parties, which oversees the activities of the ICC

Preparation List

i i. Opening Statement

ii. Evidence Packet: a. A Stipulations list: those are general facts about the case that both parties agree to and adhere by. e.g., *President George Bush served two terms as president of the United States from 2001 to 2009.*

b. Evidence list: Both parties will present their evidence in this list. Each counsel may object on the other counsel's evidence under grounds of reliability, authenticity, or bias. If the objection is sustained, then this evidence will be removed.

iii. Witness List and corresponding affidavits: *an affidavit is the witness's profile with their testimony and a brief description of the witness's life.*

iv. Closing Statement

Procedure

1. **Pre-Trial Chamber/investigative phase:** In the Pre- trial chamber Opening statements will be presented and evidence from the prosecution and defense will be debated. The debate will help the judge reach a conclusion on whether the case is worthy of being moved to trial or not:

- The counsels commence by stating their opening statements as an introduction to the trial. Also, they will provide a brief description of their case.
- Evidence can be objected upon based on an objection list
- The prosecution presents their evidence first; it gets debated and could be removed based on an objection.
- After the evidence is debated, the judges will vote on whether the case should move to trial or not based on the evidence presented and if the evidence presented by the prosecution constitutes a crime within the jurisdiction of the Rome Statue.

2. **Trial chamber/phase:** if the judges vote on proceeding into trial, the procedure for the trial will be as follows:

- The prosecution starts first by directly examining their first witness

- During the cross examination the defense will start by examining the witness first, then opposing counsel will examine the witness.
- Afterwards, re-direct examination and re-cross examination will proceed
- This process will be repeated for all prosecution witnesses

After that the defense will repeat the same process as the prosecution, with the prosecution still cross-examining the witnesses. o During the examination of the witnesses, the opposing counsel could object to the questions of the counsel examining the witnesses.

- Finally, both counsels will present their closing statements.

General Terminologies

Memoranda: The memoranda, or memorandum for singular, are written documents that are presented to the Court by both parties. The memorandum must provide the historical background of the dispute. The memorandum can include bias, as it is set to ensure the point of view of a sovereign state. The memorandum can include a list of treaties, resolutions, historical or legal background which can provide ground to the case. The conclusion of the memoranda should include the individual party's

judgement requested to the court, which will be assessed on the verdict for the basis of such requests.

Stipulations: The stipulations or joint stipulations in other words, are a list of conditions that are presented by both parties. Stipulations are conditions or facts agreed upon by both sides, so they have no ground for a dispute. This could also account that the reliability of such contents must not be contested in throughout the trial. Stipulations could be considered as valid evidence, although not powerful enough to shape the court's decisions.

Rebuttal: The rebuttal is when advocates are allowed to speak in order to undermine the arguments of the opposing party. This is usually done on the last day of the hearing. The rebuttal phase must not include the closing statements, but 18

just a final argumentation towards the opposing party. During the rebuttal phase, new evidence may be presented to the Court if the opposing side approves the evidence.

Verdict: This is basically the resolution of the ICC. The verdict contains the judgments decided by the Court in respect to the judgments requested by both parties during the final deliberation. This verdict is usually read in the closing ceremony of ASGBSA MUN.

Opening Statements: Each advocate party must make an opening speech that could take up around 15 minutes. During each party's opening statements, they are expected to present their cases to the court. The overall goal in each party's statement is to convince of what they want for this trial. Advocates are encouraged not to make far-fetched promises to the court regarding the case, as it may turn up against them. The applicant party may begin their opening statements first, followed by the respondent party.

Resting the case: "Resting the case" is similar to "leaving the floor", as seen in other MUN committees. Parties may usually rest their case after presenting evidence and/or after finishing the questioning of witnesses.

Presentation of Evidence: After each parties opening statements, each party must move on to present their evidence. It is encouraged that each party must present around 7-15 evidence, but no more. A piece of evidence cannot be presented unless the opposing party has completely examined and approved the pieces of 19 evidence, prior to the hearing. After being approved by the opposing party, each piece of evidence will be presented to the court with specific indications of the source of evidence, writer/publisher, the title, and date of the publication.

The Registrar must take on the role of securing the pieces of evidence for later reference. The Registrar shall mark the pieces of evidence sequentially for the Applicant Party in numerical order (Evidence 1), while the evidence presented by the Respondent party is marked alphabetically (Evidence A.)

The opposing party may object the evidence if they don't see it fit, that is if it may contain bias or other aspects that compromise its credibility. The court has the presiding say on any objection, and if they entertain such objection; president will inform the advocates that they cannot present the piece of evidence to the court.

Burden of Proof: The Applicant party has the burden of proof. The burden of proof is considered valid when the evidence provided by the applicants must convince 51% of the judges. This will allow the applicants who meet the burden of proof to “win” the case.

Weight of the evidence: The weight of the evidence is how much importance the judges will give during writing the verdict. The weight will ultimately depend on the credibility of the source and the relevance of its content to the case.

Direct Examination: A direct examination is when the advocates question their respective witnesses. The questions asked during direct examinations cannot be leading questions. The purpose of direct examinations is to retrieve information 20 that can be presented to the judges, which will be considered as evidence.

Cross-examination: A cross-examination is when the opposing party examines the witness. Leading questions are allowed and considered to be asked in this type of examination. This will allow the opposing party to make a point from the witnesses, instead of saying it themselves.

Testimony: A testimony is everything that is mentioned by the witness during his or her examination, which is considered to be evidence.

Clarification: During the witness examination, the judges may ask to question after direct and cross examinations. These questions must pertain to what the witnesses said.

Rebuttal Evidence: Rebuttal evidence are pieces of evidence moved in the rebuttal phase.

Rebuttal Questioning: The judges will have the chance to ask questions to advocate after they present their rebuttal evidence. During this, they can ask questions to the Applicants and/or Respondents. These questions are used for clarification purposes.

Closing Statement: The closing statement phase is the final phase for the advocates.

During this phase, advocates must wrap up their arguments and present their final points. The advocates must present their Judgements Requested in their 21

statements. The applicant party must speak for 15 minutes, and then the respondent party takes the floor to speak for 30 minutes, which will then wrap it up with the final 15 minutes of the applicant party's speech. (This division is entirely up to advocates; the closing statement can mimic that of the opening statement.)