



The Cambridge High School, Abu Dhabi

# 2015 CAMUN

Model International Court Of Justice

***Judges' and Attorneys' Guide***

*"Peace and justice are two sides of the same coin."*

- Dwight D. Eisenhower

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## 1. Message from the Director General

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*To judges and attorneys,*

*It is a great honour that CAMUN 2015, after many years of anticipation, is well set to facilitate an extremely authentic rendition of Model IC this coming January. The novelty of courtroom setting, its distinctness and the challenge it will put forth will be a learning experience ideal for personal growth and both stretching and testing the abilities of the attorneys that will confront the setting. We hope to be able to instil the spirit of justice, good intention, honesty, integrity, work ethics within the debate and provide a memorable debate. We greatly look forward to the session and hope that the excitement is mutual.*

*Pragya Chawla*

*Director General*

*CAMUN 2015*

## 2. Functioning of the ICJ at CAMUN 2015

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### 2.1. Introduction to the ICJ

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The International Court of Justice is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America). The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. The Court is composed of the two person defence and prosecution and 15 judges.

### 2.2. The ICJ at CAMUN

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CAMUN 2014 is the first time The Cambridge High School's MUN Club has the privilege of hosting the Model ICJ. The ICJ boosts the scope and variety of MUN experiences



offered at CAMUN. It gives delegates the opportunity to put their skills to use in a courtroom situation rather than a committee. This is a distinctively different forum from other MUN Committees and presents its own unique challenges and rewards.

### 3. Cases in Session

During this session of the ICJ two cases shall be heard. The order in which the cases will appear shall be decided once the court is in session by means of general consensus between the attorneys.

#### 3.1. Case A: Application of the International Convention on the Elimination of All Forms of Racial Discrimination

##### 3.1.1. Background: Russian-Georgian relations & South Ossetia and Abkhazia.

There is a significant history concerning Russo-Georgian relations. However for the purposes of this case only the relatively modern and in particular the most recent relations between the two counties will be outlined. This is only a summary and all participants must further familiarise themselves with the diplomatic relationship between Russia and Georgia.

##### *Before independence and sovereignty*

At the beginning of the 19<sup>th</sup> Century, Georgia was annexed by the Russian Empire. From this time up to 1991 Georgia and Georgia shared, in one form or another, the same government (excluding a brief period of Georgian independence from 1917-1921). Georgia was a republic of the Soviet Union from 1921 to 1991. Joseph Stalin, the notorious leader of the USSR, was in fact an ethnic Georgian. From 1991 to the present day, both countries function as independent sovereign states.

##### *South Ossetia and Abkhazia*

Two regions within the borders of Georgia- South Ossetia and Abkhazia have been a major source of tension domestically and have also put a strain on relations with Russia. Under the Soviet Union these two regions were independent *oblasts*. Georgia's post-independence government wanted to reintegrate these regions and strip them of their autonomy. In 1991 Georgia experienced a coup d'état and was toppled into a civil war which lasted until 1995. During this period of time tensions in South Ossetia and Abkhazia boiled over into ethnic violence and wars between separatists and the majority ethnic Georgians. The separatists called for autonomy and with Russian backing achieved *de facto* independence from Georgia. This was followed by mass evictions and forced movement of ethnic Georgians from the regions. In Abkhazia 230,000-250,000 Georgians were forced to leave the region while it is estimated that in



South Ossetia about 23,000 fled. Russia continued to support the two breakaway regions and even maintained a military base in Abkhazia.

### *2008 Russo-Georgian War*

In 2008 the situation deteriorated and the conflict generally referred to as the South Ossetia War or the Russo-Georgian War broke out. The conflict was initiated by the shelling of Georgian towns around South Ossetia which was allegedly carried out by separatist forces using Russian-supplied weapons. Both Georgian and Russian forces were deployed near the borders of South Ossetia. On August 7, Georgian forces launched an artillery attack on the South Ossetian capital, Tskhinvali (see map).

On August 28, Georgian infantry forces and armoured divisions, supported by Su-25 strike aircraft, entered South Ossetia. Russian Peacekeepers were present in the region and came under attack from the Georgian Army which captured several villages and the majority of the capital city. Significantly, a Russian Peacekeeping base was shelled and there were several casualties. Russian forces subsequently entered the region. A three-day battle which raged between the Russian and Georgian forces left Tskhinvali completely devastated. Georgian forces were driven out of South Ossetia and the Russian Air Force launched a series of coordinated strikes against Georgian targets. These strikes were met with fierce resistance from Georgian air defences. The Georgian Air Force also managed to sustain attacks on Russian forces throughout the duration of fighting.

A simultaneous attack was launched against Georgia in the Kodori Valley (see map) by Abkhazian forces. This offensive was supported by Russian paratroopers, marines and naval forces. In this instance Georgian troops withdrew without notable resistance. Russian paratroopers also launched an attack on a Georgian military base in Senaki (see map). The Russian Navy stationed 16 ships off the coast of Abkhazia and in a brief skirmish sank a Georgian Coastguard vessel.

Russian forces subsequently entered Georgia proper and forced the Georgian Army to retreat and take up a defensible position near the capital city Tbilisi. Russian forces occupied a considerable area within Georgia and there were reports of looting and similar activities. These offenses may not have been directly perpetrated by the Russian Forces, but they did little in terms of prevention. On August 12 Russia announced its withdrawal from Georgia. However, Russian troops remained in Abkhazia and South Ossetia.

The aftermath of the conflict is quite considerable. Georgian casualties are estimated at 170 dead or missing, 1964 wounded and 42 taken prisoner. Georgia also lost approximately 150 pieces of military equipment (including 65 tanks), 1728 small arms and 4 naval vessels. Russian statistics suggest 63 dead or missing and 323 wounded. An



estimated 150 South Ossetian fighters were killed and Abkhaz forces reported 1 killed and 2 wounded. Georgian civilian casualties stand at 228 and about 12 police officers were reported killed or missing.

### *Relevance*

A thorough knowledge of the conflict between the two parties is required. Evidence from this conflict must be presented to the court (written/oral/multimedia) in order to reinforce arguments and prove legal transgressions. The importance of being familiar with events between 1990 and 2008 cannot be stressed enough, because this is the period of time in which the alleged Russian violations of CERD occurred.

### **3.1.2. Maps and Pictures**

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A map showing the location, type and extent of military operations during the 2008 Russo-Georgian War.



Georgian troops in Gori (August 2008.)



Russian troops in convoy towards the frontline.



### Ethnolinguistic Groups in the Caucasus Region



*A map illustrating the ethnic diversity of the region- a major source of conflict*





### 3.1.3. Basic Structure for Arguments

	<b>Applicant (i.e. Georgia)</b>	<b>Respondent (i.e. Russia)</b>
<b>Opening Statement</b>	Clearly (but briefly) outline complaint and what the Applicant will attempt to prove to the court during the trial.	Outline (briefly) the basis of defence and how it will be put forward to the court.
<b>Jurisdiction of the ICJ</b>	Prove that the Court's jurisdiction extends to the case at hand.	Refute claims of ICJ jurisdiction over the case.
<b>Authority of relevant legal document (see below)</b>	Persuade the court of the legal legitimacy of Georgia's complaint. Show either: <ul style="list-style-type: none"> <li>a) Russian violations of international law.</li> <li>b) Failure to implement terms of an international agreement.</li> </ul>	Prove that the legal basis cited by the prosecution either: <ul style="list-style-type: none"> <li>a) Doesn't apply to this case.</li> <li>b) Was not violated by the Defence.</li> </ul>
<b>Present evidence (written/oral/multimedia)</b>	Use facts and details about events/actions to prove, as far as possible, the Defence's violation of the legal basis established earlier.	Use facts, figures and details to prove that the Russian Federation did not violate any international laws, or that alleged violations are not relevant to or accounted for by the Prosecution's legal basis.
<b>Prepare/call upon a witness (if deemed necessary)</b>	Make sure the witness is: <ul style="list-style-type: none"> <li>a) Well informed on the topic (note: witnesses will be questioned by council, opposing council and judges)</li> <li>b) Relevant to the case at hand</li> <li>c) Realistic/believable (i.e. A civilian witness will not have extensive knowledge of government affairs, just as a US University Professor will not have extensive knowledge of events on the ground during the conflict)</li> </ul>	
<b>Closing Statement</b>	Be charismatic and convincing. Sum up key arguments. Avoid arguments which were not well received by the court or were disproven by the opposition. Focus on best arguments, especially those of significant legal relevance. After all, judgement will be based on legal	



	premises
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### 3.1.4. Legal Basis: The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

This United Nations Convention entered into force on the 4<sup>th</sup> January 1969 and has been signed and ratified by both Georgia and the Russian Federation. The information in this guide is merely a brief summary of some of the relevant points in the Convention.

Attorneys must note that in order for any argument made before the court to hold legitimacy it must be based on this Convention. Accusations and alleged wrongdoings which do not violate the terms of this Convention shall not be considered legal transgressions. Please note that a moral transgression does not inherently constitute a legal transgression. In passing a verdict, Justices shall take into consideration legal transgressions alone.

Attorneys and Justices will require a sound knowledge of the Convention.

**Article 1** defines racial discrimination as:

*"...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."*

The court must establish whether this definition, and thus this Convention, can be applied to the alleged actions of the Russian Federation.

It is also important for attorneys and Justices to note the official status of both Georgia and the Russian Federation in terms of recognition and ratification of the Convention. Both parties have signed and ratified the Convention and furthermore recognise their competence under article 14. Thus both parties recognise the competence of the Committee on the Elimination of Racial Discrimination which monitors the implementation and observation of the Convention. The Committee is able to hear individual complaints of racial discrimination and make recommendations to the UN General Assembly.

The prosecution must attempt to establish the court's jurisdiction over this case with respect to Article 22 of CERD, while the defence must attempt to refute this claim.

### Article 22

*"Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement."*



### 3.1.5. Useful Links

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*ICJ Case Information (check all tabs)*

<http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=4d&case=140&code=GR&p3=0>

*International Convention on the Elimination of All Forms of Racial Discrimination*

<http://www2.ohchr.org/english/law/cerd.htm>

*ICJ Statute*

<http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>

*ICJ Rules of Court*

<http://www.icj-cij.org/documents/index.php?p1=4&p2=3&p3=0>

*BBC Special Report- Russo-Georgian Conflict*

[http://news.bbc.co.uk/2/hi/in\\_depth/europe/2008/georgia\\_russia\\_conflict/default.stm](http://news.bbc.co.uk/2/hi/in_depth/europe/2008/georgia_russia_conflict/default.stm)

## 3.2 Case B: Construction of a Road in Costa Rica along the San Juan River- Nicaragua v. Costa Rica

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### 3.2.1. Background Information

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Last year, in October 2010, Nicaraguan troops set up camp on Isla Calero, on the Costa Rican bank of the San Juan River. The troops raised the Nicaraguan flag, and then began tree clearing, and dredging operations which are still continuing. Nicaragua's violation of the Costa Rican sovereignty has been blamed on Google maps.

The border between Nicaragua and Costa Rica is determined by the course of the Rio San Juan as it stretches towards the Caribbean Sea. In the final 20-odd kilometres, the river splits in two, with the border following the smaller, north most strand; and the other being a completely different river, the Rio Colorado. These two rivers outline the delta island Isla Calero, Costa Rica's largest Island.

In 1858 the mutual border was set by the Canas-Jerez Treaty of Limits, after a series of military tension between the two countries, on the whole because of the San Juan being similar to a transisthmus canal. According to the treaty, the south bank of the river is Costa Rican territory but the San Juan, the river is Nicaraguan. Costa Rica was given right to use the river for commerce.

The tension between the countries did not end at the border, in 2005 Costa Rica sent a report to the International Court of Justice that Nicaragua was unfairly restricting access to the river. The Court's ruling in 2009, stated that Costa Rica could not resupply armed police posts by the river, but also that Nicaragua could not demand visas from Costa Rican tourists travelling along the river.



On October 22, 2010, Eden Pastora, the nationally famous Sandinista ex-revolutionary and now Nicaragua's director of the operation argued that the region is no man's land because the San Juan has changed course since the 19<sup>th</sup> century, when the borders were set. By November 2, 2010, he had discovered that Google Maps' border gives Nicaraguan the top part of Isla Calero, and he used this to justify the troop encampment on the island.

Costa Rica and Nicaragua have engaged in this mutual hostility since October 2010. Costa Rica accused Nicaragua of dumping silt on Isla Calero and causing environmental damage. After that, both countries sent armed personal to the region. In January 2011, the Nicaraguan troops that occupied areas of the Isla Calero, which Costa Rica claimed was an "armed invasion", and the Costa Rican troops were ordered to move from the region by the International Court of Justice.

As a result Costa Rica complained to the Organisation of the American States, but Nicaragua argued that the only body fit to rule on the issue is the ICJ. Since another ruling would take longer to finish, giving Nicaragua enough time to finish whatever work it was doing. Costa Rica was not in a position to prevent Nicaragua from acting, because it had abolished its military in 1948.

Now, Nicaragua is suing Costa Rica in the International Court of Justice over Costa Rica's construction of a road along the banks of the San Juan River. Nicaragua has stated that this construction will leave serious impacts on its ecosystem.

### **3.2.2. Legal Basis**

In the 1960s the growing decline of marshlands and wetlands, which resulted in the decrease of waterfowl, raised much concern in Project MAR, such that a decision to form an international convention on wetlands was issued. The 1962 conference, headed by Mr. Hoffmann, included the participation of the IUCNNR (now IUCN), the IWRB (now Wetlands International), and the ICBP (now the BirdLife International), and took place in the French Camargue. The next eight years, saw the planning and preparation for the convention, through many meetings, and under the guidance of Professor G. V. T Matthews and the Norwegian government. In the beginning the main focus of the convention lay on the preservation of the waterfowls, however, as the planning developed and because of legal consultant, Mr. Cyrille de Klemm's advise, the conservation of wetland habitats rose in importance, over the importance of the preservation of species.

On 2 February 1971, the text of the convention was signed by the delegates of 18 countries. This meeting was organised by Mr. Eskander Firouz, Director of Iran's Game and Fish Department. And as a result in December 1975, upon the acceptance UNESCO, and a few other organisations, the Convention was established.

Modified on two occasions, the Ramsar Convention was first modified in 1982 due to a protocol (a new treaty which amends the original), and in 1987 the second modification



was because of amendments again to the original treaty. This was known as the “Regina Amendments”.

The Ramsar Convention, also known as the Convention on Wetlands of International Importance, is a non-governmental treaty that enables national action and international cooperation for the conservation and wise use of wetlands.

“The conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world”, stands as the Ramsar mission and aim.

This mission and aim includes lakes and rivers, swamps and marshes, wet grasslands and peatlands, oases, estuaries, deltas and tidal flats, near-shore marine areas, mangroves and coral reefs, and human-made sites such as fish ponds, rice paddies, reservoirs, and salt pans, as the different types of wetlands that require conservation.

The core of Ramsar philosophy is the “wise use” concept. The “wise use” of wetlands is defined as “the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development”. “Wise use” therefore has at its heart the conservation and sustainable use of wetlands and their resources, for the benefit of humankind.

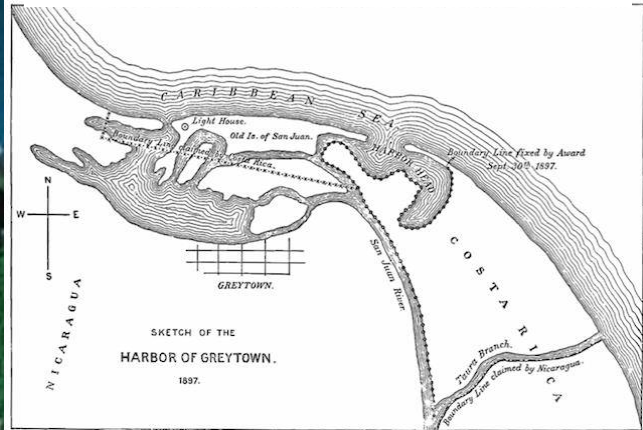
Committing themselves to the implementation of the Convention’s “three pillars”, the Ramsar Contracting Parties, or Member States (include Costa Rica and Nicaragua), are required to designate suitable wetlands for the List of Wetlands of International Importance (“Ramsar List”), to ensure their effective management; to work towards the “wise use” of all their wetlands through national land-use planning, appropriate policies and legislation, management actions, and public education; and to cooperate internationally concerning the trans boundary wetlands, shared wetland systems, shared species, and development projects that may affect wetland.

### 3.2.3 Maps and Pictures





Google's current inaccurate border



### 3.2.4. Useful Links

[icj-cij.org](http://icj-cij.org)

[insidecostarica.com](http://insidecostarica.com)

[ticotimes.net](http://ticotimes.net)

[geography.about.net](http://geography.about.net)

[emergingterrains.com](http://emergingterrains.com)

[Ramsar.org](http://Ramsar.org)

<http://www.icj-cij.org/docket/files/152/16917.pdf#view=FitH&pagemode=none&search=%22conventions%22>





#### **4. Procedures and Preparation**

##### **4.1 Courtroom Procedure**

##### **4.1.1. Order of Trial Proceedings**

*Note that certain stages of the trial have time limits, these will be strictly enforced. Proceedings will be explained at the start of the session*

- 1) President brings Court to order and makes speech
- 2) Court decides through consensus which Case shall be heard first
- 3) Chosen Case introduced by President
- 4) Submission of Memorandums
- 5) Opening statement by Applicant(5-10 minutes)
- 6) Applicant presents evidence
  - a) Questions relating to evidence asked by Respondent
  - b) Questions relating to evidence asked by Judges
- 7) Introduction of the witnesses for the Applicant (10 minutes)
  - a) Witness are sworn in
  - b) Initial questioning by the Applicant (10 minutes)
  - c) Cross-examination by Respondent
  - d) Additional questions by the Applicant(questions that might have arisen during the cross-examination)
  - e) Questions from the judges
- 8) Opening statement by defence (5-10 minutes)
- 9) Respondent present their evidence
  - a) Questions relating to evidence asked by Applicant
  - b) Questions relating to evidence asked by Judges
- 10)Introduction of the witnesses for the Respondent(the same format as above with both sides reversed) (10 minutes)
- 11)Presentation of the closing statement by the Applicant(10 minutes)
- 12)Presentation of the closing statement by the Respondent(10 minutes)
- 13)Deliberations by justices



#### **4.1.2. General Rules**

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- 1) The President has complete authority over the court:
  - a) Whether in session or informally gathered
  - b) Over Attorneys and Justices
  - c) To determine time limits
  - d) To dismiss any evidence as impermissible
  - e) To condemn inappropriate behaviour and take further action if necessary
- 2) Attorneys and Justices must observe basic courtroom courtesy:
  - a) Use proper terminology
  - b) Respect colleagues
  - c) Conduct trial in an orderly manner
- 3) Judge's must be neutral and respect the rules of confidentiality:
  - a) Judges must be open minded, professional and unbiased
  - b) No part of the judges' deliberations or decisions on verdict may be disclosed to anyone- it will be formally done in the Closing Ceremony.

#### **4.1.3. Relation of this simulation to the actual ICJ**

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Council must take note that this simulation is based on a case already heard in the real International Court of Justice. This does by no means limit the interpretational and sentencing powers of Justices. The verdict passed in this Court does not have to reflect that passed in the actual case. Please take into account that references to the actual ICJ case and its proceedings shall not be permissible during this trial. For the sake of this simulation, the case shall be handled as if it has not yet appeared before the ICJ.

### **4.2. Judges' Preparation**

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#### **4.2.1. Research**

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Judges must possess extensive knowledge of both cases which are to be tried before the court. Special emphasis must be placed on being familiar with the respective legal basis of each case as it is upon these documents that Judges must base their eventual rulings. Reading through the case summaries in this guide, exploring the given links and pursuing further research will give justices a good basis from which to interpret and analyse the evidence and arguments presented during the trial. Judges are advised to come prepared with legal briefs. These are for the Judges' personal use and can contain specific legal elements to take note of in the proceedings, or certain issues which were come across during research and must be clarified by the Attorneys.

#### **4.2.2. Role in the Courtroom**

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Judges play an essential and interactive part in the proceedings and must be well-informed and attentive when the court is in session. Judges are expected to actively engage in questioning Attorneys on their evidence and arguments. Furthermore Judges



are expected to take thorough notes which will be useful in at the end of the session when all judges will collaborate to decide on a verdict. This verdict will be debated among the judges at the end of the trial and will be finalised through a simple majority vote. Judges are not allowed to disclose the verdict until the closing ceremony of the Conference.

### ***4.3 Attorneys' Preparation***

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#### **4.3.1 Research and Evidence Collection**

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The topic information in this guide is intended to be a very basic outline and is not nearly thorough enough for the purposes of trial. Attorneys must engage in thorough research of their stance, as well as opposing council's possible arguments. Please insure that reliable sources are used for all information gathering as disreputable sources shall undermine the validity of evidence in the eyes of the court.

#### **4.3.2. Writing a Memorandum**

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A memorandum is a compilation of all the evidence gathered by Attorneys. It must be submitted in booklet form at the beginning of the proceedings. It must be organised in an orderly manner and should contain an index. During the presentation of their case, attorneys must adhere to the order in which evidence is presented in the memorandum to enable the judges and the opposing council to follow the argument. Evidence and witnesses not included in the memorandum shall not be taken into account by the court unless special permission is granted by the President. The memorandum must be submitted to the President as soon as the court is in session. Attorneys are given freedom to choose how they want to organise their memorandum, as long as it is easy to follow the progress of the argument in trial.

#### **4.3.3. Addressing the Court**

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The manner in which Attorneys address the Court is of paramount importance. The information in the Memorandum must be presented to the court in a thorough, articulate and convincing way. Confidence will count in Council's favour as will adherence to proper terminology and etiquette.

#### **4.3.4 Calling a Witness**

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Witnesses (there may be several) must be thoroughly briefed beforehand. A witness may be anyone, from any delegation participating in CAMUN. When the court comes to calling Witnesses the concerned delegate will be summoned from his/her Committee to appear before the Court. In case Council has difficulties finding a witness please contact the President beforehand so that a witness can be arranged.



## 5. Glossary of Terms

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- Applicant:* Country initiating the Case (i.e. Georgia in Case A, Nicaragua in Case B).
- Respondent:* The accused State (i.e. Russian Federation in Case A, Costa Rica in Case B).
- Attorneys:* The legal representatives of the Applicant State and the Respondent State.
- Council:* Legal representation of a State made up of two Attorneys.
- Affirmation:* Made by witnesses- "I do solemnly and sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth."
- Objection:* An objection may be raised if an affirmation made by opposing council is deemed inappropriate. Objections may be overruled by the President. If the President sustains an objection, the assertion it applies to shall be stricken from the record and may not be taken into account by judges. Objections may interrupt an Attorney, but must be used sparingly and respectfully. An objection shall be raised as follows and addressed to the President: "Objection Your Honour, [reason for objection]. The following are valid reasons for objection:
1. *Hearsay*- facts not verified or directly observed by person asserting them.
  2. *Competence*- when an Attorney or Witness expresses a fact or interpretation they are not qualified to give. The Court may then consider such an assertion as argument rather than fact.
  3. *Prejudicial*- If the personal integrity of a Judge or Attorney is maimed by a particular comment or offense is taken.
  4. *Speculation*- If an answer given by a witness is a guess.