

GREENWOOD HIGH
JUNIOR MODEL UNITED NATIONS

BACKGROUND GUIDE



ICJ

AGENDA

SOVEREIGNTY OVER PULAU LIGITAN
AND PULAU SIPADAN(INDONESIA VS
MALAYSIA)

Letter From The Executive Board

Greetings, Delegates!

It gives us the utmost pleasure to welcome you to the International Court of Justice (the Cour internationale de Justice) at the Greenwood High Junior Model United Nations 2026.

This document will serve as your official background guide and starting point as you begin preparations for the committee. Across the three days of the conference, you will take on the roles of judges and legal representatives in one of the most technical and intellectually demanding committees in any Model UN.

You will be expected to engage with complex legal arguments, challenge interpretations, and ground your reasoning in established principles of international law.

The agenda before this court is: '*Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*.'

This case will require you to analyze issues involving sovereignty, historic title, interpretation of treaties and official correspondence, and the role of intention and conduct in territorial disputes. A strong command of the Statute of the Cour internationale de Justice, past judgments, and the rules of procedure will be essential for your success.

Please note that this background guide is NOT exhaustive. It is intended only as a foundation. Your preparation should go beyond this document and include primary sources, case law, maps, exchanges, and any material relevant to your assigned role.

Whether you are part of the bench or representing a state, your participation must reflect a clear understanding of legal argumentation, precedent, and procedure. This is not a conventional MUN committee; it is a simulation of the principal judicial organ of the United Nations. The standard is different, and so is the responsibility.

Should you need assistance at any point before or during the conference, don't hesitate to contact the Executive Board. We are here to support your preparation and ensure that your experience in committee is productive, fair, and rewarding.

See you on the other side, delegates.

The Executive Board,

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International Court of Justice

Introduction to the Cour internationale de Justice (The International Court of Justice)

The International Court of Justice, also called the ICJ, is seated in the Netherlands and is the judicial organ of the United Nations. It was established by the United Nations Charter in 1945. The Cour internationale de Justice acts as the principal means of settling the legal disputes arising between states. The Cour internationale de Justice can also provide advice on matters brought before it by the organs of the United Nations and their specialized agencies.

The Cour internationale de Justice comprises fifteen judges, each of whom is elected by the United Nations General Assembly and the Security Council of the United Nations to serve nine-year terms. As such, the Cour internationale de Justice mandate includes, among other things, contentious cases adjudicating disputes between states and advisory proceedings giving legal opinions upon questions referred for advice.

While the International Criminal Court tries persons for such crimes as genocide and war crimes, the Cour internationale de Justice tries only cases of dispute between states and advisory functions. Thus, the Cour internationale de Justice has another administrative organ known as the Registry, which is responsible for its day-to-day operation, while other organs of the United Nations remain separate from it. It is this that gives the Court administrative independence to enable it to discharge its judicial functions with parity and effectiveness.

Introduction to the Agenda

The sovereignty dispute over Pulau Ligitan and Pulau Sipadan is rooted in the colonial arrangements that shaped Southeast Asia during the late nineteenth and early twentieth centuries. The competing claims of Indonesia and Malaysia stem from the territorial divisions established by the Netherlands and the United Kingdom, whose colonial administrations governed the regions that now form modern-day Indonesia and Malaysia. These colonial powers concluded several agreements to delineate their respective spheres of influence, most notably the Convention between Great Britain and the Netherlands of 1891, which sought to define boundaries on the island of Borneo.

The 1891 Convention drew a boundary line across Borneo but failed to explicitly address the status of offshore islands in the surrounding seas. As a result, Pulau Ligitan and Pulau Sipadan, two small, uninhabited islands situated in the Celebes Sea, were not expressly allocated to either colonial authority. This omission would later become central to the legal dispute, as both Indonesia and Malaysia interpreted the treaty as supporting their respective claims to sovereignty.

Following the end of colonial rule, Indonesia and Malaysia emerged as sovereign States through processes of decolonization and state succession. Indonesia inherited territories formerly administered by the Netherlands, while Malaysia succeeded to British authority in North Borneo. For several decades after independence, the status of Pulau Ligitan and Pulau Sipadan remained largely uncontested, and no formal claims were asserted by either State.

Tensions arose in the latter half of the twentieth century when both States began to more actively assert maritime and territorial claims in the region. Diplomatic exchanges and bilateral negotiations were initiated but failed to resolve the disagreement.

With negotiations proving inconclusive and both parties seeking to avoid escalation, Indonesia and Malaysia agreed to submit the dispute to third-party judicial settlement. By a Special Agreement, they jointly referred the question of sovereignty over Pulau Ligitan and Pulau Sipadan to the International Court of Justice in 1997, undertaking to accept the Court's judgment as final and binding. This agreement brought a long-standing but previously dormant territorial dispute squarely before the Cour internationale de Justice for determination under international law.

Timeline

1850 – Contract of Vassalage between the Sultan of Bulungan and the Netherlands

This agreement formalized the Dutch East Indies' relationship with the Sultanate of Bulungan, establishing Dutch sovereignty over the Sultan's territories. The contract stated that three islands – Sebatik, Nunukan, and Tarakan – and all other smaller islands in the vicinity are part of the colonial reach of the Dutch Empire.

1878 – Deed of Cession between the Sultan of Sulu and the British North Borneo Company (BNBC)

In this deed, the Sultan of Sulu transferred rights over a large portion of North Borneo to the BNBC. The deed transferred all the Sultan's "rights and powers" over a specific territory on the mainland of Borneo, "with all the islands which lie within 9 miles from the coast".

1885 – Protocol between Great Britain, Germany, and Spain (The Anglo-Spanish Protocol)

This protocol was a multi-power agreement where Spain renounced all claims to the territories of North Borneo in exchange for British recognition of Spanish sovereignty over the Sulu Archipelago. This established a critical "exclusion zone," where the islands' status depended on whether they were geographically considered part of the Sulu Archipelago or part of the North Borneo possessions.

1891 – Convention between Great Britain and the Netherlands Defining Boundaries in Borneo

This treaty is perhaps the most debated document in the history of the dispute, as it established the boundary between British and Dutch possessions at the $4^{\circ} 10'$ north latitude across Sebatik Island. The central legal question for the case was the "extension" of this line: one interpretation argued the line was intended only for the land on Sebatik, while another argued it was meant to continue eastward across the sea, effectively acting as a maritime boundary that would place islands on one side or the other.

1900 – Treaty of Washington between the United States and Spain

Following the Spanish-American War, this treaty clarified that certain islands not explicitly mentioned in earlier treaties were still part of the Philippine archipelago ceded to the United States. Its relevance to Sipadan and Ligitan lies in the fact that these specific islands were ultimately determined to fall outside the U.S. jurisdictional lines, thereby eliminating a third-party claim and narrowing the dispute to the British and Dutch spheres.

1903 – Grant by the Sultan of Sulu of Certain Islands (The Deed of Confirmation)

This document was created specifically to resolve ambiguities in the 1878 Deed of Cession by naming various offshore islands that the Sultan of Sulu considered part of the original grant. It is relevant because it provides an explicit list of maritime features under the administration of the North Borneo Company, serving as a primary source for identifying which islands were historically recognized as part of that territory.

1915 – Agreement between Great Britain and the Netherlands relating to the Boundary between North Borneo and the Netherland Possessions

This supplemental agreement was designed to physically demarcate the boundary lines that had been established on paper in 1891. Its relevance to the islands is found in the technical descriptions of the border on Sebatik Island, which served as the official "starting point" for any subsequent maritime claims or projections into the Celebes Sea.

1917 – The British North Borneo Turtle Preservation Ordinance

This local ordinance established a regulatory framework and licensing system for the collection of turtle eggs on Sipadan. In international law, this is relevant as an effectivité—an act of "effective occupation"—showing how a state exercised its authority through environmental regulation and administrative control over a specific piece of land, regardless of the underlying treaty interpretations.

1930 – Convention between Great Britain and the United States of America regarding the Boundary between the Philippine Archipelago and North Borneo

This international convention drew a precise maritime boundary to separate the Philippines (under U.S. administration) from North Borneo (under British administration). This line, often called the "Convention Line," is legally significant because it placed Sipadan and Ligitan on the British side of the maritime limit, though the dispute remained whether this line was binding upon the Dutch interests to the south.

1933 – Declaration of Sipadan as a Bird Sanctuary

The British North Borneo government officially designated Sipadan as a protected sanctuary for migratory birds under the local Land Ordinance. This event is relevant to the case because it demonstrates the application of land-use laws and the intent of the colonial government to manage the island's ecology as part of its organized administrative territory.

1945–1949 – Proclamation of Indonesian Independence and the Charter of Transfer of Sovereignty

Following the end of World War II and a period of armed conflict and diplomacy, the Netherlands formally transferred sovereignty of the Dutch East Indies to the Republic of Indonesia. This transition is a foundational element of the case, as it established Indonesia as the successor state to all Dutch claims, rights, and territorial interpretations established during the colonial era, including those in the Celebes Sea.

1962–1963 – Construction of Lighthouses on Pulau Sipadan and Pulau Ligitan

During this period, the British North Borneo authorities built permanent navigational lighthouses on both islands. Indonesia had no counter assertion to the lighthouses, and the relevance of these structures lies in the concept of "continuous and peaceful display of state authority" on Malaysia's behalf.

1963 – The Malaysia Agreement and the Formation of the Federation.

North Borneo became a British colony in 1946. In 1963, this international agreement saw the United Kingdom relinquish its sovereignty over North Borneo, Sarawak, and Singapore to form the Federation of Malaysia. This event made Malaysia the legal successor to the British colonial administration, inheriting the administrative records, lighthouses, and conservation laws previously applied to Sipadan and Ligitan.

Critical date(See “Key Terms”) - 1969

1991–1994 – Bilateral Special Committee and Joint Working Group Meetings

For several years, high-level diplomatic groups from both countries met to examine the treaties from 1891, 1915, and 1930. These meetings are relevant because they represent the final attempt at a "political" solution, where both sides presented their historical evidence and treaty interpretations before concluding that the gap between their legal positions was too wide to bridge through negotiation. Renewed interest in the islands stemmed from Malaysia's increasing tourist development on the island, which Indonesia disputed as an exercise of sovereignty and a violation of the alleged status quo that the countries had reached in the 1969 Agreement between Malaysia and Indonesia relating to the Delimitation of the Continental Shelves.

1997 – Special Agreement for the Submission to the ICJ.

Signed in Kuala Lumpur, this "Special Agreement" or Compromis was the formal legal instrument that moved the case to the Hague. It is the defining document of the modern era of the dispute, as it strictly defined the questions the ICJ was allowed to answer and bound both nations to accept the Court's final decision as the definitive end to the dispute.

Relevant Treaties and International Law

(Reminder: The information provided in this background guide should serve only as the basis of your research. Delegates will need to give a lengthy presentation and contribute to an opening and closing statement, and are therefore expected to develop their legal argument further.)

Bilateral and Regional Treaties:

1. Contract between the Sultan of Bulungan and the Government of the Netherlands East Indies of 12 November 1850

- Date signed: 12 November 1850
- Important provisions: The Sultan of Bulungan recognized Dutch sovereignty over its territories, including the islands of Sebatik, Nunukan, and Tarakan, “with the small islands belonging thereto”.

2. GRANT BY THE SULTAN OF SULU OF A PERMANENT LEASE COVERING HIS LANDS AND TERRITORIES ON THE ISLAND OF BORNEO

- Date signed: 22 July 1878
- Important provisions: The Sultan of Sulu leased all his power and rights over his territories between the “Passadan” and “Sibuku” Rivers, including all islands within 9 miles from the coast, to representatives of Britain.

3. Protocol of 1885

- Date signed: 7 March 1885
- Important provisions: The Spanish Government renounces claims of sovereignty over territories in Borneo which had or may have belonged to the Sultan of Sulu, including islands 3 “maritime leagues” from the coast, ceding them to Britain.

4. CONVENTION BETWEEN GREAT BRITAIN AND THE NETHERLANDS DEFINING BOUNDARIES IN BORNEO

- Date signed: 20 June 1891
- Important provisions: The 1891 Convention established the 4°10' north parallel of latitude as the boundary separating the respective possessions of Great Britain and the Netherlands in North Borneo.

5. Convention Between the United States of America and Great Britain Regarding the Boundary Between the Philippine Archipelago and the State of North Borneo

- Date signed: 2 January 1930
- Important provisions: The Convention delimited the boundary between the Philippine Archipelago and the State of North Borneo, establishing Pulau Ligitan and Pulau Sipadan as part of North Borneo

International Treaties and Conventions:

1. UN Charter Articles 2(3) and 33

- Date of adoption: 26 June 1945
- Important provisions: Obligates member States to settle disputes by peaceful means and lists judicial settlement as an option, providing the overarching legal framework under which both States chose the International Court of Justice route.

2. Vienna Convention on the Law of Treaties Article 31

- Date of adoption: 23 May 1969
- Important provisions: Sets the standard rule of treaty interpretation used by the International Court of Justice when analyzing the context of relevant treaties.

Customary International Law:

1. Effectivités

A principle of customary international law that refers to acts by a state that demonstrate continuous and effective administration, which can create the grounds for sovereignty.

2. Estoppel by Acquiescence

A principle of customary international law that determines a state's silence or failure to object to an action or situation is taken as implied consent, thereby preventing it from later asserting a conflicting or rival claim.

3. Ut Possidetis Juris

A principle of customary international law that serves to preserve the boundaries of colonies emerging as sovereign states. Newly independent countries retain the administrative boundaries established by former colonial rulers.

4. Pacta Sunt Servanda

A principle of customary international law that establishes that agreements and treaties entered into by states are legally binding and must be performed in good faith.

Precedent:

1. Minquiers and Ecrehos 1953

Demonstrated the Court's methodology of using effectivités to determine sovereignty in the absence of a legal/conventional title.

2. Frontier Dispute 1986

Demonstrated the Court's methodology of the legal title taking precedence over effectivités when settling territorial disputes or applying the uti possidetis juris principle.

Rules of Procedure

The committee comprises a total of 25 delegates:

- 15 Justices
- 5 Advocates for Indonesia
- 5 Advocates for Malaysia

Justices:

Justices in the Cour internationale de Justice committee play a pivotal role in simulating judicial proceedings akin to those conducted by the real International Court of Justice. Their primary responsibility is to adjudicate disputes between states based on international law principles and legal arguments presented by advocates. Their responsibilities include:

- Justices carefully listen to the arguments advocates present and weigh the evidence presented by advocates to reach a decision.
- Justices ask questions to clarify arguments, challenge assertions, and gauge the strength of each party's case.
- After the presentation and questioning phases, justices draft written opinions detailing their assessments of the case.
- Justices collaborate to reach a decision using the majority rule.

Advocates:

Advocates in the Cour internationale de Justice committee represent the parties involved in the dispute, presenting arguments, marshalling evidence, and engaging in legal advocacy to persuade justices of their party's position. Their responsibilities include:

- Advocates submit a memorial, which is an outline of the factual and legal bases of the case from the perspective of each party.
- Advocates then present their party's arguments and evidence orally to persuade justices of the validity of their case.
- Advocates respond to questions posed by justices and opposing advocates.
- Advocates engage in rebuttals and counter-arguments against the opposing party's assertions, aiming to undermine their arguments and strengthen their own position.
- Advocates deliver opening and closing statements summarizing their party's position, reiterating key arguments and urging justices to rule in favor of their client based on the presented legal merits.

Schedule and Proceedings

PHASE 1 - Submission of Memorials (For advocates)

Memorials are written submissions that serve as the foundation for each advocate's legal arguments. These documents outline the factual and legal bases of the case from the perspective of each party, providing a structured and detailed presentation of their claims, evidence, and legal reasoning. These are submitted before the committee begins to the Executive Board, which will share this with the Judges on the day of the conference.

PHASE 2 - Preparation

On the day of the conference, the committee will start with the justices receiving the Memorials of all advocates to go through. During this time, the advocates can plan their opening statements and compare presentations to minimise overlap.

PHASE 3 - Opening Statements

Opening statements will be presented by both sides. This phase sets the stage for the arguments to follow and allows advocates to outline their party's fundamental positions. Each side will be given 15 minutes in total for presenting their opening statements. The advocates of each side can decide on how they want to split this time amongst themselves.

PHASE 4 - Discovery & Preparation

The advocate who will be presenting will submit all relevant documents that they wish to enter as evidence and cite in their presentation (as part of discovery) to the executive board, which will share them with the opposing side and justices. The opposing side and justices will go through the shared discovery and prepare for the upcoming presentation and questioning.

PHASE 5 - Presentation and Questioning

The proceedings will then adopt an adversarial structure, allowing advocates to present their cases, followed by questioning from both the opposing advocates and the justices. 1 round of presentation will have one advocate from each side present, meaning 2 sets of presentations and questioning by the judges and opposing advocates.

- Each advocate of a side has 10 minutes to present their arguments, supported by evidence and legal reasoning.
- 5 minutes are allocated for justices and opposing advocates to pose questions to the presenting advocate.

PHASE 6 - Opinion Writing, Deliberation & Preparation

After each round of presentations and questioning, justices enter into a phase of opinion writing and deliberation. Justices have 20 minutes to write their opinions, reflect on the arguments presented, discuss among themselves, and formulate their individual stances on the case. The judges at the end of these 20 minutes will submit their Opinions to the executive board. An opinion document will be no less than 150 words and no more than 400 words. This document will include the Justice's individual stance on the round that just concluded. Advocates utilize this time to regroup and prepare for subsequent rounds.

PHASES 4, 5 & 6 together will be one round, rounds will continue until all delegates have finished presenting

PHASE 7 - Closing Statements

Following all the rounds, advocates deliver closing statements to summarize their arguments and reinforce their party's position. Each side will be given 10 minutes in total to present their closing statements. The advocates of each side can decide on how they want to split this time amongst themselves.

PHASE 8 - Decision and Deliberation

Justices deliberate to reach a final decision based on the arguments presented and the evidence provided. The final decision will be based on the majority rule. During this phase, a Judgment will be expected to be provided by the majority rule of the judges. Judges who have a dissenting opinion on the judgment may submit a supplementary dissenting opinion document.

Rules and Guidelines

- Advocates must coordinate their arguments to avoid redundancy or overlap. While common points between advocates are permissible, presentations must be unique, and clearly distinguishable to ensure clarity and effectiveness.
- Instead of witnesses, advocates may utilize credible reports and documentation from reputable sources (e.g., international commissions, UN reports) as evidence. All evidence must be submitted to the Executive Board, which will share it with the opposing party and the justices.
- Adequate time is provided for advocates to prepare their cases between rounds. All relevant documents, evidence, and reports must be submitted to the Executive Board on time to facilitate informed deliberation.
- Failure to comply with the mentioned deadlines for submissions will result in the exclusion of materials from consideration.



Formats for Documentation

Memorial Format (For Advocates)

Title Page

- Title of the Case
- Advocate's Name
- Nation Represented
- Date

Summary

- Brief overview of the case and key arguments

Statement of Facts

- Summary of facts relevant to the court's proceedings and the advocate's argument

Jurisdiction

- Explanation of the Cour internationale de Justice's jurisdiction

Legal Arguments

- List of relevant legal claims
- Key legal points supporting each claim
- Supporting Evidence for each claim (bullet points).

Note: References to sources, such as maps and illustrations, are permitted.

Conclusion

- Summary of the relief sought

References/Bibliography

- List of main sources (labelled bullet points)

Opinion Document Format (For Justices)

Title Page

- Title of the Case
- Justice's Name
- Round Number

Introduction

- Brief overview of the round (A minimum of 1 paragraph for each presentation)

Summary of Facts

- Key facts/laws/precedents that were cited in the presentation(in bullet points).

Legal Analysis

- Summary of the justice's opinion and reasoning

Judgment Format (For Justices)

Title Page

- Title of the Case
- Date

Chronology of Procedure

- Composition of the court
- Initiation of proceedings and the subject of dispute
- Basis of the court's jurisdiction
- Procedural history

General Background, Analysis, and Evidence

- Relevant facts of the case
- History of the dispute
- List of principal issues
- Summary of the arguments of the parties involved
- The court's analysis and interpretation of legal claims presented by all parties
- Bibliography(containing any evidence used)

Operative Clause

- List of the court's binding rulings
- The number and list of justices who have voted for or against every individual ruling

Dissenting Opinion Document Format(For Justices)

Title Page

- Title of Case
- Justice's Name

Introduction

- Summary of the justice's disagreement with the judgment of the court

Analysis and Evidence

- List of legal claims for which the justice finds the court's judgment unsatisfactory
- Summary of the court's judgment regarding every individual claim
- The legal basis and analysis behind the justice's objection to every individual claim
- The justice's alternative finding concerning every individual claim



Key Terms

Sovereignty

The capacity of a state to possess autonomy or supreme authority, specifically, over certain territories it controls (territorial sovereignty).

State

A state is any entity that possesses a definite territory, a definite population, an effective government capable of exercising control over its territory and population, and the capacity to enter into diplomatic relations with other states.

Title to Territory

The legal basis, including but not limited to treaties, effective control, or historic claims, on which a state claims ownership of a specific land area.

Critical Date Doctrine

A critical date refers to a specific point in time that is imperative for determining the validity of competing claims in territorial or other disputes. In general circumstances, any events taking place post the critical date are deemed irrelevant to the proceedings.

Further Reading

Contract between the Sultan of Bulungan and the Government of the Netherlands East Indies of 12 November 1850

<https://www.un-ilibrary.org/content/books/9789211067101c029/read>

GRANT BY THE SULTAN OF SULU OF A PERMANENT LEASE COVERING HIS LANDS AND TERRITORIES ON THE ISLAND OF BORNEO -

https://www.reaganlibrary.gov/public/2023-10/40-654-6282679-125-020-2023_0.pdf, page 16

Protocol of 1885 -

<https://web.archive.org/web/20131029195606/http://www.lawnet.sabah.gov.my/Lawnet/SabahLaws/Treaties/Protocol%28Madrid%29.pdf>

CONVENTION BETWEEN GREAT BRITAIN AND THE NETHERLANDS DEFINING BOUNDARIES IN BORNEO

<https://www.un-ilibrary.org/content/books/9789211067323c019/read>

THE BOUNDARY BETWEEN THE STATE OF NORTH BORNEO AND THE NETHERLAND POSSESSIONS IN BORNEO

<https://treaties.fcdo.gov.uk/data/Library2/pdf/1915-TS0012.pdf>

Turtle Preservation Ordinance -

<https://www.un-ilibrary.org/content/books/9789211067323c063/read>

Convention Between the United States of America and Great Britain Regarding the Boundary Between the Philippine Archipelago and the State of North Borneo -

<https://history.state.gov/historicaldocuments/frus1930v03/d104>

Minquiers and Ecrehos

<https://www.icj-cij.org/case/17>

Frontier Dispute

<https://www.icj-cij.org/case/69>

Sovereignty over Pulau Ligitan and Pulau Sipadan

<https://www.icj-cij.org/case/102>

Memorial of Indonesia

<https://icj-cij.org/sites/default/files/case-related/102/8558.pdf>

Memorial of Malaysia

<https://icj-cij.org/sites/default/files/case-related/102/8560.pdf>

