International Court of Justice

UGAMUNC 30

Table of Contents

Delegates,

Welcome to the International Court of Justice (ICJ) for UGAMUNC 30!

My name is Kanika Patel and I will be the chair for this committee alongside my co-chair, Elizabeth Vershkov. I am a second year pre-law student studying International Affairs. I have been doing Model United Nations since high school and I am so excited to be chairing this committee. Model UN has been a great way for me to get creative, practise my debate skills and compete with people from across the nation. Outside of classes, I spend my free time reading, online shopping, trying new restaurants around Athens with my friends and binge-watching my favourite movies!

For the International Court of Justice, take this as an opportunity to debate your case with other passionate individuals, learn about international law and legal mechanisms on the world stage, and work on your own public speaking and argumentation. You will have the opportunity to overturn or reaffirm contentious cases between numerous different countries. Every member of the ICJ has a voice which will be crucial in choosing the future for the applicants and respondents, so your participation will be key.

If you have any questions, you can reach me at kanikapatel@uga.edu. We cannot wait to work with a new generation of delegates in person!

Good Luck!
Kanika Patel and Elizabeth Vershkov

Sensitivity Statement

As you conduct research and prepare to attend our conference, please remember to be respectful and mindful of different cultures, traditions, religions, and more. Here at the University of Georgia, we do not tolerate any form of discrimination. As a standard, follow the Western business attire dress code, do not imitate accents when speaking, and do not bring props. Treat your fellow delegates with the utmost respect, regardless of differences in ability, age, culture and ethnicity, gender identity, national origin, race, religion, and sexual orientation. Please keep this in mind, whether it's the ideas discussed during debate or the content of your papers.

Additionally, cheating by pre-writing or other measures such as the use of AI (ChatGPT, Google Bard, Grammarly AI, etc.) will not be allowed, as it not only provides certain delegates with unfair advantages, but also takes away from the passion, personality, and effort that each delegate puts into their ideas and works. The use of AI to write notes, speeches, or papers in committee is strictly forbidden.

In short, please conduct yourself in a respectful and professional manner. If instances of racism, sexism, homophobia, xenophobia, etc. ever arise during committee, please let us know so that we can handle the situation and create a safe and welcoming environment for everyone. Furthermore, if our staff determine that you have violated our code of conduct, or that you have committed any aforementioned forbidden activities such as prewriting, accent imitation, or racism, we reserve the right to disqualify you from UGAMUNC 30.

COMMITTEE BACKGROUND

Preface

The International Court of Justice (ICJ) simulation will be an exciting opportunity to try a new type of Model United Nations competition, but it will also have to run very differently compared to other committees and specialised bodies within the United Nations and simulated at this competition. The ICJ is the principal court established by the Charter of the United Nations and therefore does not adhere to parliamentary procedure. Instead, we will be following a procedure similar to what is done in a moot court or mock trial simulation. This will involve preparing oral arguments based on the facts and the sources of the law relevant to each topic. In order to prepare for this committee, you will need to read the background guide! We ask that you **only** read the background guide and the helpful resources provided below. **Do not conduct any outside research when getting ready for the committee. Any evidence you try to include that is not provided to you will not be admissible in court.** You should be prepared to argue each case from either side and in order to help you prepare for this you will be writing two case briefs instead of a position paper. In this committee, a case brief will act as a short summary for each topic in the background guide, and will follow this basic format:

1. Background/ Introduction
2. Facts of the case (that support your country)
3. Sources of law (that support your country)
    - Full Title & Year of Source of law
    - Hyperlink the article the **first** time you introduce it
    - Quotations for essential parts and paraphrase the rest
4. Interpretation of the case
    - How would you answer each legal question presented to the court?
5. Legal Conclusion
    - Why should your argument be considered over the other country's argument?

If you are a judge, please pick either the respondent or the applicant to write a memorial.

These case briefs will be due January 19th, 2024. Please submit them directly to Kanika at (kanikapatel@uga.edu). We expect each case brief to be around two or three (2-3) double-spaced pages in length.

Committee Schedule

As mentioned above, the ICJ does not adhere to parliamentary procedure. Instead, we will conduct a committee according to a schedule that will repeat for each case. This schedule can be viewed below, and does not include the breaks or meal times:

- **Preparation for Oral Arguments (30 minutes):** As you will work to prove your case in teams, you will be given time before court begins to collaborate and prepare your ideas and arguments. Use this time to compile your strongest legal arguments, begin drafting your opening statement, decide which evidence you want to highlight, and divide roles among your team.
- **Applicants Deliver Opening Statements (15 minutes):** The opening statement is a lawyer's first opportunity to address the court during a trial and is persuasive in nature. It is intended to give the jury a preview of the case to come. In an opening statement, you would describe the two parties to the case, outline the nature of the dispute, present a concise overview of the facts and evidence, frame the evidence in a way that is favourable to your theory of the case, and outline what your legal team expects to prove. Why should the court side in your favour? Why will your case be better than the case the other side will present? You will not be expected to speak for the duration of the 15 minutes, but should try to achieve a flow and appear organised throughout your presentation. The statement may be split between numerous different group members.
- **Respondents Deliver Opening Statements (15 minutes):** *see above explanation*
- **Preparation for Presenting the Evidence (30 minutes):** This is the time in which your team will decide which evidence and sources of the law you would like to present in court. You should make sure to delegate which team member should present which evidence and that there is a natural flow or progression to your arguments. Think of it like writing an essay, make sure each argument you make circles back to your overall legal claim → *that the court should rule in your favour and the other side is incorrect or in the wrong.*
- **Applicant's Presentation of the Evidence (35 minutes):** In presenting the evidence that supports your case, you should try and use legal arguments. There are two main components of a legal argument: the law and the reality that you are applying the law to. Your goal in crafting a legal argument is to clearly and logically combine the two. This can be done by determining what the law says and what the law means. What the law says is its exact words, while the meaning of the law includes who is subject to the law (is it countries or individual

actors?) and what rights and obligations the subject of the law must adhere to. Furthermore, it should be determined how the case at hand matches the law, and what the result would be if the law is applied to this case. It is your goal for this interpretation to support what your country wants to get out of the court case.

- **Respondent's Presentation of the Evidence (35 minutes):** *see above explanation*
- **Question Period for Applicants (15 minutes):** this is a time for the judges to ask each side any questions they had throughout the course of the trial. These questions can be for clarification on the evidence presented or legal arguments, and should be directed to individuals on each side. Questions should not be adversarial. As a judge, you should listen to the arguments presented and think of questions you would like to ask each side afterward. As an applicant or respondent, you should be ready to answer the judge's questions and think of any weaknesses in your arguments that could be elaborated upon further.
- **Question Period for Respondents (15 minutes):** *see above explanation*
- **Preparation for Closing Arguments (20 minutes)**
- **Applicant Closing Arguments (15 minutes):** The closing argument is a lawyer's final opportunity to tell the judges why they should win the case and is done after both sides have finished presenting all their evidence. This is done by explaining how the evidence supports your theory of the case, and by clarifying any issues that must be resolved before the judges issue their opinion. While in the closing arguments you cannot introduce any new legal arguments or evidence that was not discussed earlier in the case, this is your opportunity to be creative and dramatic when convincing the court to rule in your favour!
- **Respondent Closing Arguments (15 minutes):** *see above explanation*
- **Judges Deliberation (25 minutes):** The judges will step out of the room and discuss with each other how they think they should rule on each question presented to the court. This does not need to be a unanimous ruling among the judges. Some judges can disagree with the majority ruling, or can agree with the majority ruling but for different reasons. This time will be spent debating what the judges think should be the best way to rule in this case, and what that ruling would look like in detail and in reality. Feel free to change your mind once you hear the other's arguments, but do not be afraid to stick to your own opinion. Once the time is almost up, if the judges have yet to reach a consensus on what the majority opinion is, a vote will be taken to see which country has won the case.
- **Opinion Writing Judgement (30 minutes):** Once a majority ruling has been determined, the judges will have to explain their reasoning. This will be done by writing the opinion of the court. Similar to collaborating on a resolution or a directive in committee, the judges will work together to craft a document detailing why based on the evidence, sources of the law, and legal

reasoning they believe a certain country has won the case. In writing this opinion, be sure to answer which country you are ruling in favour of for each question presented to the court and why. You can rule in favour of one country for one question presented to the court, and rule in favour of the other country for a different question presented to the court. If you don't agree with the majority ruling, that is fine! Instead of working with the other judges to write the majority opinion, you can write a dissent by yourself or with other like-minded judges, describing why you disagree and why, based on the evidence and law, your interpretation is more accurate. Similarly, if you agree with the majority ruling but not with their legal reasoning, you can write a concurring opinion that discusses that despite agreeing with the ruling of the court, why their reasoning is wrong or not as significant in determining this case as your reasoning is. A concurring opinion can disagree with the majority concerning every question presented to the court, or just one. Again, be sure to answer each question presented while citing the evidence and legal arguments presented in court.

- **Delivering the Opinion of the Court (20 minutes):** Once the majority opinion and any concurring or dissenting opinions have been completed, they will be read aloud to the respondents and applicants. This will be when it is revealed who has won the case and why. Majority opinions will be read first, then concurring opinions, and finally dissenting opinions.

Suggested Reading

As this committee may include some new concepts, here are some helpful resources:

- This source will outline the components of a legal opinion. Read "I. What's in a Legal Opinion?" (pages 1-4) to see what you should include when writing your own legal opinion: https://www.law.uh.edu/faculty/lhoffman/HowtoReadaLegalOpinion.pdf
- This source outlines what goes into a legal argument. Don't worry if you do not understand the law being referenced in the examples. These examples are to show the components of a legal argument and how you might want to put them together into a cohesive whole: https://emedia.rmit.edu.au/learninglab/content/writing-legal-argument

The International Court of Justice

The International Court of Justice (ICJ) was established in 1945 and is one of the six principal organs of the United Nations. Located in the Hague, Netherlands, the ICJ has a worldwide jurisdiction to settle disputes between different countries in accordance with international law and issues advisory opinions on legal questions.[1] The rulings and opinions that are generated by the court constitute primary sources of international law that can help provide guidance in future cases. The ICJ Statute establishes that the court shall consist of a 15-judge panel, with each judge elected to serve a nine-year term. In order to ensure equal representation in the ICJ, Article 9 of the statute requires the panel to represent the "principal legal systems of the world," and there has been a long time customary understanding that the panel seats be distributed by geographic region.[2] There are three different types of cases the ICJ hears: contentious, incidental, and advisory. In this committee, we will be focusing exclusively on contentious cases, which are adversarial proceedings seeking to settle a dispute between countries.

For this committee, you will perform two of three different types of roles; applicant, respondent, or judge. As an applicant (Argentina and Djibouti), you bring a complaint against another country to the ICJ and argue that another country has breached its obligations under international law and according to the facts of the case. In some cases, you may want to prove that your country has sustained damages as a result of the other country's conduct. As a respondent (Uruguay and France), you "respond" to the complaint brought by the applicant country by arguing that you are not in breach of your obligations or violating the law according to international law and the facts of the case. As a judge, it is your job to hear the arguments from both the applicants and the respondents. You will apply the law to the facts of the case in order to compose a detailed judgment that includes whether the respondent has violated the law or not, and if so, whether the applicant has sustained any damages. You would then calculate those damages, and if as a justice you determine the respondent is liable for damages against the applicant country, you will determine whether those damages will be addressed through court ordered fines, injunctions, or imprisonment.

[1] "The Court: International Court of Justice," The Court | International Court of Justice, accessed October 18, 2022, https://web.archive.org/web/20180110090149/http://www.icj-cij.org/en/court.
[2] "Statute of the International Court of Justice," Statute of the Court | International Court of Justice, accessed October 18, 2022, https://www.icj-cij.org/en/statute, Article 9.

Forms of International Law

There are numerous different sources of the law that the ICJ will evaluate when making its decisions and can include sources of both international law and domestic laws from the different countries involved. Sources of international law typically include treaties and conventions, customary law, general principles, and subsidiary law.[3] For the cases in our committee, the international law will take the form of different treaties and UN conventions, while the domestic law will compose of a country's statutes, proclamations, acts, and individual laws. The laws relevant to each case that will be debated in committee will be provided further below in this background guide.

Sometimes different laws will conflict on the same issue. In these cases, conventions and treaties are seen as taking precedence over customary law, customary law taking precedence over general principles, and general principles taking precedence over subsidiary laws. Additionally, newer laws are more significant than older laws, and more specific laws are more significant than general or vague laws. If an older law is more specific and detailed than a newer law, then that older law takes precedence over the newer law; the detail of the law is more important than the age.

Required Vocabulary:

- **Applicant:** the party that files a petition against another entity (Argentina, Djibouti)
- **Respondent:** the party the petition is filed against (Uruguay, France)
  Judge: an appointed or elected official who decides legal disputes in court. In the ICJ, judges are elected to a nine year term.
  Duty: conduct the law requires or prohibits one to perform (i.e. obligation)
- **Breach:** a violation of law by doing something or failing to do something the law required
- **Damages:** the remedy that the applicant requests the court award in order to try to make them as the injured party whole. Damages are typically in the form of monetary compensation awarded to the injured party and are imposed if the court finds that a party breached their duty under contract or violated some right. The monetary damages can be compensatory damages (calculated based on the harmed party's actual loses), or punitive damages (intended to punish the wrongdoer)
- **Direct Examination:** the initial questioning of a witness, by the party that called them to the stand
- **Cross Examination:** the act of the opposing party questioning the witness during a trial
  Affidavit- a sworn statement a person makes before a notary or officer of the court outside of

the court asserting that certain facts are true to the best of that person's knowledge. In the event a witness's testimony contradicts what they stated in their affidavit

- **Provisional measures:** pre-judgment or pre-trial court orders intended to preserve the status quo until the court issues a final judgement, similar to an injunction in the United States
- **Draft Articles;** the name used for a number of subsidiary sources of international law that form general rules of country responsibility, and outline when and how a duty has been breached and the legal consequences for such a violation
- **Question Presented:** an issue brought to court that is always resolved by a judge, types of which may include an issue regarding the application or interpretation of a law, or what the relevant law may be
- **International Letter Rogatory:** a formal request from a court, in which an action is pending, to a foreign court to perform some judicial act

COMMITTEE ROLES

Topic A Applicant 1, Topic B Judge, Topic C Respondent 1
Topic A Applicant 2, Topic B Judge, Topic C Respondent 2
Topic A Applicant 3, Topic B Judge, Topic C Respondent 3
Topic A Applicant 4, Topic B Judge, Topic C Respondent 4
Topic A Applicant 5, Topic B Judge, Topic C Respondent 5

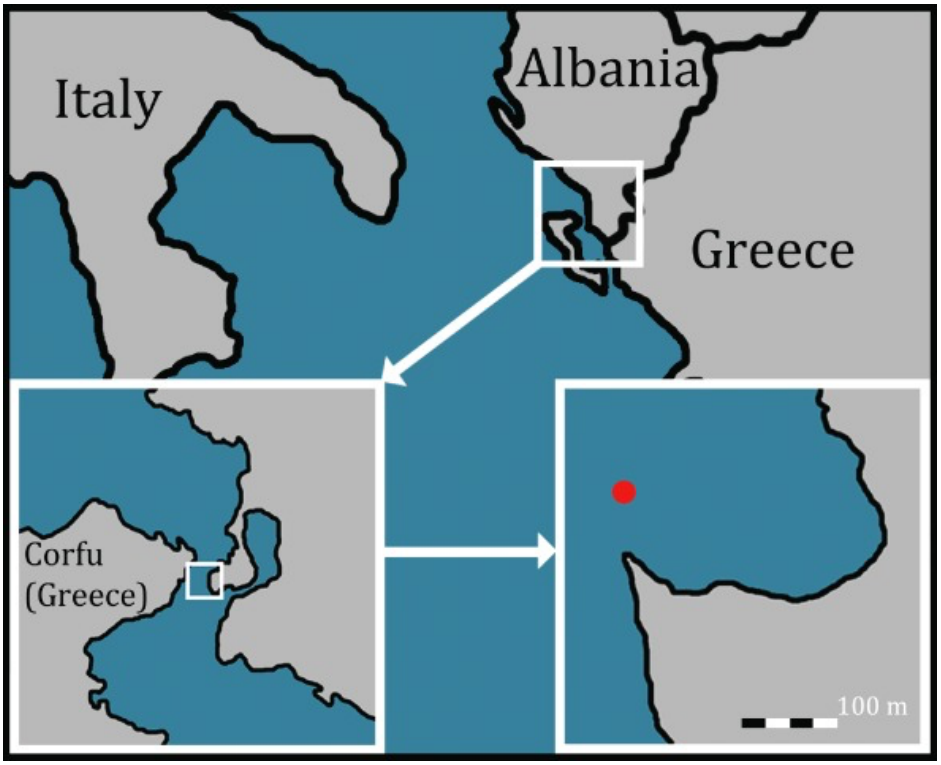
Topic A Respondent 1, Topic B Judge, Topic C Applicant 1
Topic A Respondent 2, Topic B Judge, Topic C Applicant 2
Topic A Respondent 3, Topic B Judge, Topic C Applicant 3
Topic A Respondent 4, Topic B Judge, Topic C Applicant 4
Topic A Respondent 5, Topic B Judge, Topic C Applicant 5

Topic A Judge, Topic B Applicant 1, Topic C Judge
Topic A Judge, Topic B Applicant 2, Topic C Judge
Topic A Judge, Topic B Applicant 3, Topic C Judge
Topic A Judge, Topic B Applicant 4, Topic C Judge
Topic A Judge, Topic B Applicant 5, Topic C Judge

Topic A Judge, Topic B Respondent 1, Topic C Judge
Topic A Judge, Topic B Respondent 2, Topic C Judge
Topic A Judge, Topic B Respondent 3, Topic C Judge
Topic A Judge, Topic B Respondent 4, Topic C Judge
Topic A Judge, Topic B Respondent 5, Topic C Judge

Topic A: Corfu Channel (The United Kingdom vs. Albania)

The island of Corfu is off the coast of Greece and Albania. The island was ceded to Greece's constitutional monarchy by the British Empire in 1864, as an attempt to counter the sprawl of the British adversary, the Ottoman Empire. The channel runs between the island of Corfu and the coasts of Albania (to the north) and Greece (in the south).[3]



Corfu Channel Case

May 15, 1946: Shots Fired at the *Orion* and *Superb*

On May 15, 1946, two British cruisers - *Orion* and *Superb* - were travelling south through the Corfu Channel off the coast of Albania, close to Saranda, when shots were fired from the Albanian shore at

[3] All materials for this case come from Dr. Leah Carmichael's course reader, which can be found here.

the two cruisers.[4] The *Orion* and *Superb* did not return fire nor were they hit. Both ships were ordered to change direction away from the Albanian coast. The Albanian commander of the Saranda military stated in his report that the *Orion* and *Superb* were unidentified, no prior notice was given that they would be travelling through the channel and that the shots fired were meant as warning shots because these ships were perceived as: one, warships two, in territorial waters and three, without prior notification.

Three days later, a report clarified that the flag on the ship was initially thought to be Greek and only later deemed to be "the English war banner." Following the May 15th incident, Britain sent a diplomatic note on May 18th, 1946, demanding a "rapid and public apology for this violent act of the Albanian batteries" along with "assurances that the persons responsible would be severely punished."

Albania responded on May 21st, 1946 assuring Britain that "it was never the purpose of our coastal command in Saranda to attack ships of our ally, Great Britain, if they had been recognized and if they hadn't been in our territorial waters going toward the harbour of Saranda."

Great Britain sent a note in response on May 30th, 1946. In the note, it was stated that "the right of passage both in peace and war" for both warships and merchant ships. Britain also countered Albania's claim that the channel waters belonged to Albania by explaining that the channel formed an international strait as it serves as a highway of "international traffic and connecting two parts of the open sea." As a result of that, Britain explained that it did not need to notify Albania of its passage through the channel.

On June 13th, Albania responded that they "neither had, nor has the intention of hindering navigation" in the Corfu Channel by any "kind of ship of any nationality" so long as "the ship respects the rights and laws of our country." Due to this, Albania reasserted its original statement that the channel was within its territorial waters and can thus be said that no ship can head "toward our coast, without fulfilling the appropriate formalities and without the permission of the Albanian authorities."

In one final response, on August 2nd, 1946, Britain again rejected Albania's claim to the channel and threatened to retaliate if Albanian ever opened fire again "on any of His Majesty's vessels passing through the Corfu Channel," promising "fire will be returned by His Majesty's ships."

---

[4] "Corfu Channel Incident, 1946," Britain's Small Forgotten Wars, accessed October 12, 2023, http://www.britainssmallwars.co.uk/corfu-channel-incident-1946.html.

That being said, Britain did not go through the Corfu Channel again until October. During the months between May and October, Greece notified the British that a ship from Yugoslavia (i.e., an ally of Albania) that had regularly passed through the Channel stopped its route through the Channel beginning around September 26th, 1946.

Around the same time, the British Admiralty sent a letter to its Mediterranean Command asking it "whether the government of Albania has learned how to behave [for the purposes of establishing diplomatic relations with it]." In the letter, written on September 21st, 1946, the Admiralty remarked that if the Mediterranean Command had not yet attempted to pass through "Straits of the Corfu Channel since August, [they should] plan to do so as soon as possible."

October 22nd, 1946: The Sinking of the *Saumarez* and *Volage*

On October 22, 1946, two British cruisers, *Mauritius* and *Leander*, accompanied by the destroyers, *Saumarez* and *Volage*, left the Port of Corfu on the island of Corfu controlled by Greece. The four British warships moved northwards directly through the middle of the Corfu channel. At the narrowest portion, these ships were instructed to cross the Straits toward the Albanian coastline (heading towards the Albania town of Saranda). They were told to respond with fire if Albania fired at them. Soon enough, the crews heard machine guns being fired from the Albanian shore, but no shot hit the boat. Before the ships could respond, the *Saumarez* hit a submerged mine, killing thirty six sailors almost instantly.

An Albanian launch then came out from Saranda under the white flag. Though it did not assist, it questioned why the ships were in the channel. *The reply was not recorded.*

During this time, the second warship, the *Volage*, moved toward the *Saumarez* with the intention to tow it back to the Port of Corfu. As it was towing it away from the Albanian shore, the *Volage* hit a submerged mine, and eight of its sailors were killed instantly. Even though both ships were eventually able to return to the Port of Corfu, they had lost two additional sailors, and forty two were suffering from injuries.

The first letter came from the British four days later. On October 26th, 1946, the British faulted the Albanians for the mines "of which the Albanian authorities will doubtless be aware," and let the Albanians know that the British mine authorities would be returning to the Channel very soon to "clean the Channel."

In response, Albania submitted a letter to the United Nations Security Council, condemning the British for "such provocations against [it]," and asking the Security Council (with Britain as a member) to hold the state accountable. The same day, Albania sent an angry letter to the British government directly: "for the second time warships of Great Britain have violated our territorial waters, without having any authorization from our government, and in this way have violated the integrity of our country." It further noted that it had no issue with the British clearing mines outside of Albania's territorial waters. When the British government announced that the clearing of the mines would be done on November 12th, the Albanian government answered with a counterproposal to set up a mixed commission to determine the area involved. The British saw the proposal of the Albanian government as an attempt to delay the mine-clearing operation and quickly refused.

November 13, 1946: Sweeping the Channel for Mines

On November 13th, British authorities sent minesweepers to the Channel to conduct a search called "Operation Retail." Twenty three mines were found. One exploded in the water but no one was harmed, ten remained floating on the water, nine sank, and two were taken to Corfu.

In the report, Britain reported that the mines found on the November 13th sweep were the same as the ones that sank the two British ships on October 22nd. It also stated that they were German-made.

As WWII came to an end, Churchill sent the British navy to assist the monarchy's return to Greece as the Nazis were evacuating. As the island of Corfu has been heavily armed with explosives by the Nazis during the war, one of the British's roles during this time was to sweep the Corfu Channel, looking for landmines left by the Nazis. Two sweeps: one in 1944 and another in 1945- reported that the Channel was free of landmines.

Three separate incidents occurred in the Corfu Channel between Britain and Albania in 1946: one on May 15th, one in October, and a third in November.

Questions Presented to the Court

1. Is Albania responsible for the damage/death of UK ships and personnel due to Albanian mines located in international waters under International Maritime Law?
2. Did Britain violate Albanian sovereignty with mine sweeps in the Corfu Channel?

Questions to Consider (as you read the case law!)

1. What obligations does your country have to act or not act under this law? Do they meet these obligations? If they do not, which Articles of the law are called into question?
2. What rights does your country have to act or not act under this law?
3. What are the conditions by which these rights and obligations do or do not apply?
4. As a judge, what questions would you want to ask to either country?

Relevant Case Law

The Hague Convention:

Convention Respecting the Laws and Customs of War on Land (1907)

"The Hague Convention"

Chapter Seven: LAYING OF AUTOMATIC SUBMARINE CONTACT MINES

Article 3: When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping. The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they Cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the governments through the diplomatic channel.

Article 4: Neutral Powers which lay automatic contact mines off their coasts must observe the same rules and take the same precautions as are imposed on belligerents. The Neutral Power must inform ship-owners, by a notice issued in advance, where automatic contact mines have been laid. This notice must be communicated at once to the Governments through the diplomatic channel.

International Customary Maritime Law in 1946

Territorial Waters

All coastal states have a maritime buffer off their coasts. Due to the expansive nature of oceans and how maritime transportation was conducted historically, they are measured slightly differently than landmasses. That is, water distance is measured using nautical miles. Nautical miles are slightly longer than regular miles and are calculated by dividing the circumference of the Earth into 360 degrees and then further dividing each of those degrees into 60 minutes of arc. Each arc is one nautical mile (roughly 1.1 miles). During this time, there was no full consensus during this time as to how far a state's territorial waters could extend. Historically, it had been three nautical miles (as that's how far a cannon from a ship could fire and reach land). That said, by 1940, the distance had been extended to around 12 nautical miles off one's coast (though some states, like the U.S., claimed around 200 nautical miles as their territorial waters). If your state is close enough to another state to be within each other's

territorial waters, then the two states honour the median line between the two coasts. Within this buffer area, a state's full legal jurisdiction can be enacted, and an attack within this maritime buffer is equal to an attack on a state's land with one exception: the right to innocent passage by other states.

There are two types of ships recognized in international customary law: merchant ships and warships. International maritime law has perpetuated the notion that the seas should be open to innocent passage, or the passing of all ships through all bodies of water, even territorial waters of states to promote trade and commerce, and even defence. The only obligation for a ship under the right of innocent passage is to notify a state when the ship is entering its waters, to not cause any harm, and to not dwell within the waters but continue where it is bound. As a result, the criteria of innocent passage allows for a warship to enter territorial waters so long as (1) it respects coastal state regulations and (2) does not interfere with or "threaten the tranquillity of the coastal state." As for coast state regulations, most coastal states require that a ship within its territorial waters notify the coastal state of the entry and state its purpose. In terms of concerns of threats to the tranquillity of the coastal states, these states saw it their right (Burke and DeLeo, n.d.)[5] to determine whether a ship was "innocent" and then to "suspend, deny, or impede the innocent passage of certain types of vessels, particularly warships" they deemed to be "non-innocent."

The High Seas

Maritime law has distinguished all areas of seas and oceans that are not within the territorial waters of a state are almost always considered to be the high seas, open to all ships at all times. During this time, states had equal access to the high seas with few restrictions placed on their activities.

International Straits

There are some strategic pathways around the globe that states have determined meet the third categorization of waterways: international straits. Straits are considered to be narrow waterways that link to larger bodies of water. When a strait is deemed international in nature, it is because the strait offers a convenient route for international transportation, generally between two water bodies designated as high seas. If a strait is designated as an international strait, international customary law allows for all ships - both merchant and warships - to have the right to transit passage or to move through the strait without being impeded by a coastal state. Though this may sound closely related to

[5] Burke, Karin, and Deborah DeLeo. n.d. “Innocent Passage and Transit Passage in the United Nations Convention on the Law of the Sea.” Innocent Passage and Transit Passage in the United Nations Convention on the Law of the Sea. Accessed October 16, 2023. https://openyls.law.yale.edu/bitstream/handle/20.500.13051/6819/22_9YaleJWorldPubOrd389_1982_1983_.pdf?sequence=2&isAllowed=y.

innocent passage, in practice, a coastal state has far more rights to designate what is innocent passage and not in its territorial waters than to delimit transit passage in an international strait. Instead, the general practice is that these states can impede, but not prohibit, the passage of merchant or warships within international straits.

Economic agreement between Yugoslavia and Albania (1946)

Article 1

Both High Contracting Parties bind themselves to harmonize the economic plans of both countries on a mutual basis. For the realization of this aim co-ordinational organs (bodies) shall be formed. The co-ordinational organ (body) for the harmonization of the economic plans of both countries will be formed before the 15th December, 1946.

Article 2

Within three months from the day of signing of this Agreement the Government of the People's Republic of Albania shall equalize in value its currency unit, the Albanian lek, with the Yugoslav dinar.

The Government of F.P.R.Y. binds itself to extend to the Government of the People's Republic of Albania, by means of import into the People's Republic of Albania, goods and material intended for economic rehabilitation in a manner and to an extent which shall be provided for by economic plans (harmonized) in conformance with Article 1, all the indispensable aid for the realization of the Albanian economic plan, and also to ensure the movement of goods (traffic in goods or trade in goods) indispensable to the maintenance of the Albanian lek on a parity with the Yugoslav dinar.

Currency circulation in the People's Republic of Albania shall be equal (proportional) to the currency circulation in F.P.R.Y. having

regard for the numerical position of the population and economic power of both countries.

Until such time as the monetary reform provided for in Article 2, Clause 1, of this Agreement is carried into effect, the Government of the People's Republic of Albania shall introduce on its territory the price system and the prices which exist on the territory of F.P.R.Y.

Article 3

The Government of F.P.R.Y. and the Government of the People's Republic of Albania bind themselves to abolish within one month from the day of the signing of this Agreement the customs frontier and customs duties between both countries, thus creating a single customs territory.

The system and the customs tariffs in force on the single customs territory shall be those which apply (are in force) in F.P.R.Y. Goods shall be passed through customs by the competent organs of the High Contracting Party through whose frontier they are imported, and the sums collected shall belong to that High Contracting Party for whom the goods are intended.

In order that the efficacious application of the provisions of the preceding clause shall be ensured, an Albano-Yugoslav Mixed Customs Commission shall be formed on the territory of the People's Republic of Albania.

Article 4

This Agreement shall run for thirty years from the day of signature. It shall be automatically prolonged for a period of ten years, except in the event of revocation.

Revocation must be notified in writing at least one year before the expiry of each period foreseen in the preceding clause.

Article 5

This Agreement comes into force from the day of signature, and the exchange of ratification instruments shall be carried out in Belgrade, at the latest, one month from the day of signature.

Topic B: Oil Platforms (Islamic Republic of Iran v. United States of America)

In 1955, when relations between Iran and the U.S. were friendly, the two countries concluded a "Treaty of Amity, Economic Relations and Consular Rights" Article X of the Treaty guarantees the freedom of commerce and of navigation between the territories of the two nations. After the seizure of the U.S. Embassy in Tehran by Iranian students in November 1979, including the taking of American hostages, relations between Iran and the U.S. deteriorated up to a point where diplomatic relations were severed. The two countries did not, however, terminate the Treaty.

In this case, Iran claimed that the United States used military warships to destroy Iranian offshore oil platforms located on the Iranian continental shelf and owned for commercial purposes by the National Iranian Oil Company in 1987 and 1988. Iran further alleged that such actions breached numerous provisions of the 1955 Treaty of Amity, Economic Relations, and Consular Rights that had been signed by each party.

On September 22, 1980, Iraqi military forces invaded Iran, triggering a war that lasted almost eight years. Although the conflict was initially limited to land warfare between Iran and Iraq, it spread to the Persian Gulf in 1984 when Iraq began attacking oil tankers on their way to and from Iranian ports in an attempt to disrupt Iran's oil exports. Iran also attacked numerous military and commercial vessels of varying nationalities, including vessels from neutral countries such as South Korea. These attacks occurred during what became known as the "Tanker War."

During the war, Kuwait and Saudi Arabia supported Iraq against Iran, while Kuwait requested the United States to protect their oil tankers. The United States agreed to do so in 1987, launching Operation Earnest Will in order to protect their own oil interests in the region by reflagging eleven Kuwaiti oil tankers under U.S. registry and ordering their navy's Middle East Force to escort them as

they sailed through the Persian Gulf.[6] This brought them into direct conflict with the numerous countries participating in the conflict, including Iranian mines and naval forces, attacks by Iraq warplanes, and land-based Silkworm missiles.

That same year, in May 1987, the USS Stark suffered losses from a mistaken attack by two air-launched Iraqi Exocet missiles. On October 16, 1987, the Kuwaiti oil tanker, *Sea Isle City,* which had been re-flagged to the United States, was hit by a missile while in Kuwaiti waters. The missile attack injured six crew members and damaged the ship. In retaliation, the United States launched Operation Nimble Archer three days later, targeting Iranian oil platforms Resalat and Reshadat, which were currently being used for Iranian military purposes. U.S. forces gave officials on the military platforms twenty minutes to evacuate before firing on the platforms. High-explosive shells set the platforms ablaze, but were unable to damage the steel-lattice platforms.[7]That same day, the United States sent a letter to the U.N. Security Council, pursuant to Article 51 of the U.N. Charter, informing the Council that the United States had acted in self-defense. The letter described the U.S. actions against the oil platforms, the Iranian attacks that had led to such actions (including the missile attack on the *Sea Isle City),* and the various ways in which Iran had been using the oil platforms for offensive military purposes.

On April 14th, 1988, the USS Samuel B. Roberts sailed into an Iranian minefield in international waters where one mine exploded beneath the ship, blowing a fifteen meter hole in the hull. The ship's engine room flooded, three generators rendered useless, and the ship's electrical system ceased working as the warship took in water, but the crew was able to save the ship with no loss of life.[8] The next day, the United States deployed divers to the same area to investigate the minefield. The mines were recovered and investigated, and divers found serial numbers that matched those on mines recovered on an Iranian mine-laying vessel in September, 1987.

Four days later, on April 18th, 1988, the United States launched Operation Praying Mantis in retaliation for the mining of USS Samuel B. Roberts. The Operation consisted of a group of surface warships, aircraft from the aircraft carrier USS Enterprise, and her cruiser escort, USS Truxtun from the U.S. Navy with Iran’s Sassan oil platform and Sirri oil platform as the targets. One group went to the Sassan platform and again gave workers on the platform twenty minutes' notice to evacuate before firing on the target. After an exchange of fire between the two forces and the exacuation of all

---

[6] Glete, Jan, Andrew Lambert, R. Bruijn Jaap, Alan James, Werner Rahn, Marco Gemignani, J. Charles Schencking, Francisco Contente Domingues, Eric J. Grove, José Ignacio González-Aller, and William S. Dudley. "Navies, Great Powers." In The Oxford Encyclopedia of Maritime History. : Oxford University Press, 2007. https://www.oxfordreference.com/view/10.1093/acref/9780195130751.001.0001/acref-9780195130751-e-0580.
[7] Peniston, Bradley (2006). "Photos: Operation Nimble Archer". No Higher Honor. Retrieved 4 February 2013.
[8] "The Day Frigate Samuel B. Roberts Was Mined". USNI News. 22 May 2015. Retrieved 5 August 2023.

remaining people on the platform, U.S. Marines boarded the platoform, planted explosives, left the platform, then detonated them. The other group went to the Sirri oil platform, which was heavily damaged by naval gunfire. Exchanges of deadly force between the U.S. and Iran occured before, during, and after these attacks as Iran dispatched a countermovement against various targets within the Persian Gulf. Overall, the battle that occurred during Operation Praying Mantis constituted the largest of the five major U.S. naval surface engagements since World War II and resulted in the destruction of both oil platforms. Losses incurred by the United States included two killed and one helicopter destroyed. Iran incurred fifty-six casualties and five ships sunk. Once again, the United States submitted a letter to the Security Council informing the Council of what had happened and explaining that the United States had acted in self-defense.[9]

In November 1992, Iran initiated the *Oil Platforms* case against the United States. In its application to the Court, Iran claimed that the United States had violated several provisions of a 1955 Treaty of Amity, Economic Relations and Consular Rights between the two countries, as well as general international law, by taking military action against the oil platforms. Additionally, both countries claimed that the other owed reparations for damages caused during the battle; Iran wanted reparations for the oil platforms and ships sunk, while the United States wanted reparations for the oil tankers than Iran had previously damaged or destroyed.

Questions Presented to the Court

1. Does the United States view that the 1955 Treaty of Amity affords no basis of jurisdiction in this case depending upon the contention that the oil platforms in question were being used for military purposes rather than commercial purposes?
2. If the oil platforms were in fact dedicated to commercial use, would the Treaty of Amity thereby afford a basis of jurisdiction?
3. Should eiher side be awarded reparations in this case? Should both? Should neither?

Questions to Consider (as you read the case law!)

1. What obligations does your country have to act or not act under this law? Do they meet these obligations? If they do not, which Articles of the law are called into question?
2. What rights does your country have to act or not act under this law?
3. What are the conditions by which these rights and obligations do or do not apply?
4. As a judge, what questions would you want to ask to either country?

---

[9] Taft, William. "Self-Defense and the Oil Platforms Decision." Yale Law School Legal Scholarship Repository, November 25, 2021. https://openyls.law.yale.edu/handle/20.500.13051/6489

Relevant Case Law

1955 Treaty of Amity, Economic Relations and Consular Rights

Article I

There shall be firm and enduring peace and sincere friendship between the United States of America and Iran.

Article IV

1. Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws.

2. Property of nationals and companies of either High Contracting Party, including interests in property, shall receive the most constant protection and security within the territories of the other High Contracting Party, in no case less than that required by international law. Such property shall not be taken except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.

Article X

1. Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation.

Article XXI

1. Each High Contracting Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other High Contracting Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties agree to settlement by some other pacific means.

Article XX

1. The present Treaty shall not preclude the application of measures:

(a) regulating the importation or exportation of gold or silver;

(b) relating to fissionable materials, the radio-active by-products thereof, or the sources thereof;

(c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment; and

(d) necessary to fulfill the obligations of a High Contracting Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests.

2. The present Treaty does not accord any rights to engage in political activities.

3. The stipulations of the present Treaty shall not extend to advantages accorded by the United States of America or its Territories and possessions, irrespective of any future change in their political status, to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the Pacific Islands or to the Panama Canal Zone.

4. The provisions of Article II, Paragraph 1, shall be construed as extending to nationals of either High Contracting Party seeking to enter the territories of the other High Contracting Party solely for the purpose of developing and directing the operations of an enterprise in the territories of such other High Contracting Party in which their employer has invested or is actively in the process of investing a substantial amount of capital: provided that such employer is a national or company of the same nationality as the applicant and that the applicant is employed by such national or company in a responsible capacity.

Rules of Court (1978)

*Article 79*bis*

1. When the Court has not taken any decision under Article 79, an objection by the respondent to the jurisdiction of the Court or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing as soon as possible, and not later than three months after the delivery of the Memorial. Any such objection made by a party other than the respondent shall be filed within the time-limit fixed for the delivery of that party's first pleading.

2. The preliminary objection shall set out the facts and the law on which the objection is based, the submissions and a list of the documents in support; it shall include any evidence on which the party relies. Copies of the supporting documents shall be attached.

3. Upon receipt by the Registry of a preliminary objection, the proceedings on the merits shall be suspended and the Court, or the President if the Court is not sitting, shall fix the time-limit for the presentation by the other party of a written statement of its observations and submissions, which shall include any evidence on which the party relies. Copies of the supporting documents shall be attached.

4. The Court shall give effect to any agreement between the parties that an objection submitted under paragraph 1 be heard and determined within the framework of the merits.

*Article 80**

1. The Court may entertain a counter-claim only if it comes within the jurisdiction of the Court and is directly connected with the subject-matter of the claim of the other party.

2. A counter-claim shall be made in the Counter-Memorial and shall appear as part of the submissions contained therein. The right of the other party to present its views in writing on the counter-claim, in an additional pleading, shall be preserved, irrespective of any decision of the Court, in accordance with Article 45, paragraph 2, of these Rules, concerning the filing of further written pleadings.

3. Where an objection is raised concerning the application of paragraph 1 or whenever the Court deems necessary, the Court shall take its decision thereon after hearing the parties.

Clean Hands Doctrine

[10]

The clean-hands doctrine is the principle that a party's own inequitable misconduct precludes recovery based on equitable claims or defenses. The doctrine requires that a party act fairly in the matter for which they seek a remedy. A party who has violated an equitable principle, such as good faith, is described as having "unclean hands." The clean-hands doctrine is invoked when a party seeking equitable relief or claiming a defense based in equity has themselves violated a duty of good faith or has acted unconscionably in connection with the same subject matter out of which they claim a right to relief. The doctrine of unclean hands does not deny relief to a party guilty of any past misconduct; only misconduct directly related to the matter in which he seeks relief triggers the defense. As explained in *Kendall-Jackson Winery v. Superior Court, 76 Cal.App.4th 970 (Cal. Ct. App. 1999)*, the party asserting the unclean hands defense must prove that the misconduct relates directly to the subject matter concerning which a particular claim is made. In other words, there must be a direct relationship between the misconduct and the claimed injuries. This could include any evidence of a party's unclean hands in relation to the transaction before the court or which affects the equitable relations between the parties in the matter before the court. The court should be able to review such evidence in order to effect a fair result in the litigation.

The Caroline Test (standard used for determining self-defense under customary international law)[11]

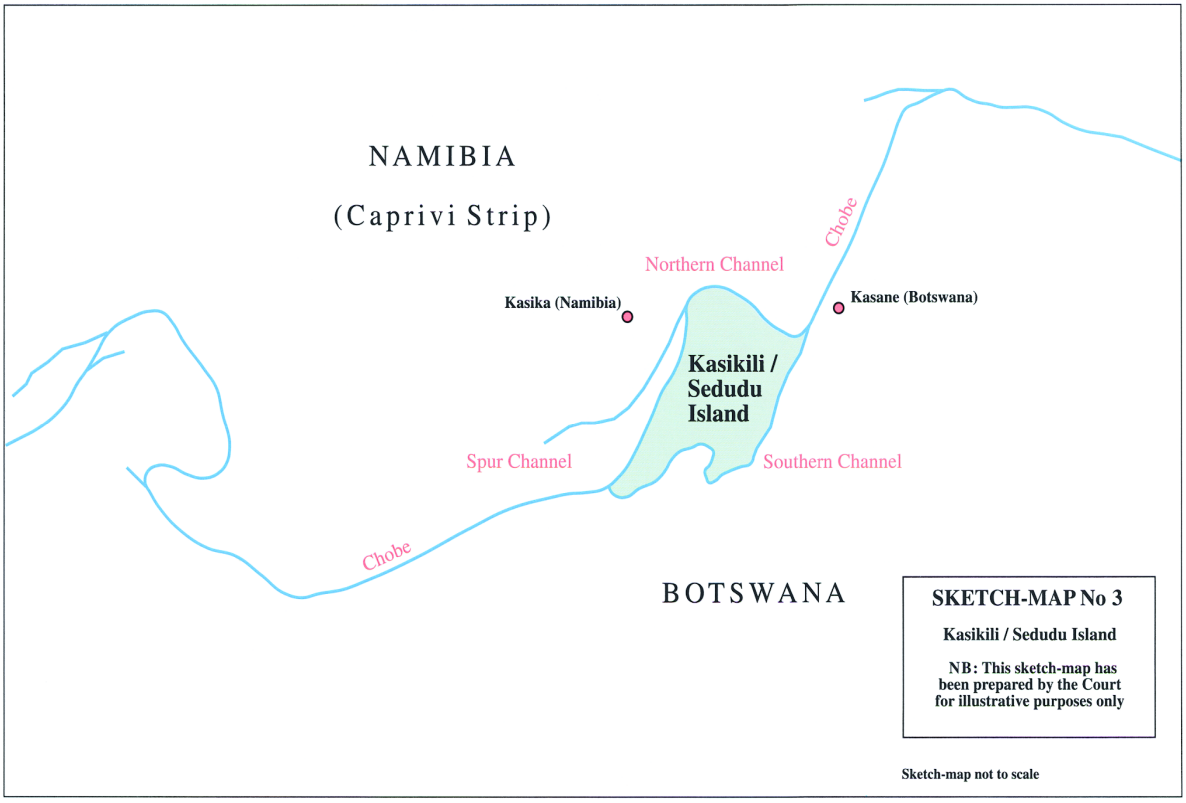
> It will be for that Government to show a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation. It will be for it to show, also, that the local authorities of Canada,- even supposing the necessity of the moment authorized them to enter the territories of the United States at all,-did nothing unreasonable or excessive; since the act justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it.

[10] "clean hands doctrine | Wex | US Law | LII / Legal Information Institute." n.d. Law.Cornell.Edu. Accessed October 16, 2023. https://www.law.cornell.edu/wex/clean_hands_doctrine.

[11] Ignore the countries named in this instance, as they are from another case. Just focus on the law as would be applied to this case

Topic C: Kasikili/Sedudu Island (Botswana v. Namibia)

This case consists of a territorial dispute between Botswana and Namibia concerning an island that is approximately five square kilometres in area with no permanent residents. The island is found in the middle of the Chobe river which flows between the two countries, and is known as Sedudu to Botswana and as Kasikili to Namibia.



The territorial dispute arose from ambigious wording found in an agreement between the colonial powers of Germany and the United Kingdom, the two of which possessed geographic interests in the region with the German South-West Africa and the U.K. Bechuanaland Protectorate in southern Africa. These interests were codified in the Heligoland-Zanzibar Treaty signed in July, 1890.

The Heligoland-Zanzibar Treaty gave Germany control of the Caprivi Strip (see above), the island of Heligoland in the North Sea, and the center of German East Africa. In return, Germany recognized British authority in Zanzibar. The treaty was significant as it gave Germany better control over the new

Kiel Canal and their North Sea ports, and it gave Britain the city of Zanzibar, which acted as a strategic point for Britiain to exert colonial control over East Africa.

After Botswana (former Bechuanaland Protectorate) and Namibia (former German Southwest Africa) gained independenc in February 1990, the treaty's ambiguity became a problem when determining which country would get territorial control of the island.

In an attempt to resolve this conflict, both countries appointed on 24 May 1992 a Joint Team of Technical Experts on the Boundary between Botswana and Namibia around the Island to determine a new boundary based on the original Heligoland-Zanzibar Treaty. The Joint Team issued a report two months later in which they declared that it had failed to resolve the issue and recommended that "...the matter should be settled peacefully within the applicable framework of rules and principles of international law."[12]

In February, the three Presidents from Botswana, Namibia and Zimbabwe met in Harare, Zimbabwe to consider the Joint Team's report. After negotiations, they decided to formally submit the matter to the Court through a Special Agreement for a final and binding determination.

This Special Agreement outlined how the countries had tried to resolve the issue before going to the Court, how proceedings before the Court should be conducted, and how both countries would take steps to carry out the Court's judgement once it was reached.

In submitting the matter to the Court, Namibia based its claim on the Heligoland-Zanzibar Treaty of 1890 and the continued presence of the Caprivi Strip's Masubia tribe on the island. Namibia views this presence to have met a list of conditions that would support a permanent claim over the island. These conditions include:

- The possession of the state must be exercised *à titre de souverain* (as sovereign)
- The possession must be peaceful and uninterrupted.
- The possession must be public.
- The possession must endure for a certain length of time.

Believing they had met this conditions, Namibia contended that it had a prescriptive title to the island based on the following:[13]

[12] https://www.icj-cij.org/sites/default/files/case-related/98/098-19991213-JUD-01-00-EN.pdf, page 8
[13] "Case Concerning Kasikili / Sedudu Island (Botswana / Namibia) International Court of Justice International." Justia Law. Accessed October 17, 2023. https://law.justia.com/cases/foreign/international/1999-icj-rep-1045.html.

- The control and use of Island by the Masubia of Caprivi (based on having met the conditions above)
- The exercise of jurisdiction over the Island by the Namibian governing authorities
- The lack of a territorial claim by Botswana and its predecessors for almost a century with full knowledge of the facts[14]

Botswana also based its territorial claim on the Heligoland–Zanzibar Treaty and agreed that the Masubia Tribe used the Island. But Botswana differed in contending that people from the Bechuanaland Protectorate had used the Island as well, and that neither group had ever constructed permanent structures on the Island. Specifically, Botswana asserts that "...the acts of private persons cannot generate title unless those acts are subsequently ratified by the State" and "...that no evidence has been offered to the effect that the Masubia chiefs had authority to engage in title-generating activities for the benefit of Germany or its successors."[15]

Both countries additionally submitted a large number of maps, land surveys, and historical accounts to back up their claims.

Using this evidence and the applicable law, the Court was requested to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island.

Questions Presented to the Court

1. How has the Island been recognized historically?
2. Based on the evidence and applicable law, what is the boundary between Namibia and Botswana around KasikililSedudu Island and the legal status of the island?

Questions to Consider (as you read the case law!)

1. What obligations does your country have to act or not act under this law? Do they meet these obligations? If they do not, which Articles of the law are called into question?
2. What rights does your country have to act or not act under this law?
3. What are the conditions by which these rights and obligations do or do not apply?
4. As a judge, what questions would you want to ask to either country?

[14] Emergence of new states in Africa and ... - melbourne law school. Accessed October 17, 2023. https://law.unimelb.edu.au/__data/assets/pdf_file/0011/1687286/Majinge.pdf.
[15] https://www.icj-cij.org/sites/default/files/case-related/98/098-19991213-JUD-01-00-EN.pdf, page 64.

Relevant Case Law

Heligoland–Zanzibar Treaty[16]

Article III

In Southwest Africa, Germany's sphere of influence is demarcated thus:

1. To the south by the line that commences at the mouth of the Orange River and continues up its northern bank to its intersection point with the 20th degree of east longitude.

2. To the east by the line that commences at the aforementioned point and follows the 20th degree of east longitude to its intersection point with the 22nd degree of south latitude. The line then traces this degree of latitude eastward to its intersection with the 21st degree of east longitude, follows this degree of longitude northward to its intersection with the 18th degree of south latitude, runs along this degree of latitude eastward to its intersection with the Chobe River. Here it descends the thalweg of the main channel until it meets the Zambezi, where it ends.

It is understood that under this arrangement Germany shall be granted free access from its protectorate to the Zambezi by means of a strip of land not less than twenty English miles wide at any point.

Great Britain's sphere of influence is bounded to the west and northwest by the previously described line and includes Lake Ngami.

The course of the planned border has been specified in general accordance with the map officially prepared for the British government in 1889.

The fixing of the southern border of the British territory of Walvis Bay shall be subject to arbitration unless both powers reach a border agreement within two years after the signing of this treaty. Both powers agree that, as long as the border issue is unresolved, not only passage but the transport of goods through the disputed territory shall be free for subjects of both powers. They also agree that their subjects shall be treated equally in every respect in this territory. No duty shall be levied on goods in transit and the territory shall be deemed neutral until such time as this issue is resolved.

[16] Jus Mundi. n.d. "Agreement between Great Britain and Germany, respecting Zanzibar, Heligoland, and the Spheres of Influence of the two Countries in Africa (1890)." Jus Mundi. Accessed October 16, 2023. https://jusmundi.com/en/document/treaty/en-agreement-between-great-britain-and-germany-respecting-zanzibar-heligoland-and-the-spheres-of-influence-of-the-two-countries-in-africa-1890-anglo-german-agreement-of-1890-tuesday-1st-july-1890.

Article VII : Heligoland–Zanzibar Treaty

"The two Powers engage that neither will interfere with any sphere of influence assigned to the other by Articles I to IV. One Power will not, in the sphere of the other, make acquisitions, conclude treaties, accept sovereign rights or protectorates, nor hinder the extensions of influence of the other."

"It is understood that no Companies nor individuals subject to one Power can exercise sovereign rights in a sphere assigned to the other, except with the assent of the latter."

1969 Vienna Convention

SECTION 3. INTERPRETATION OF TREATIES

Article 31
General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(*a*) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;

(*b*) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(*a*) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

(*b*) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

(*c*) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32
Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(*a*) leaves the meaning ambiguous or obscure; or

(*b*) leads to a result which is manifestly absurd or unreasonable.

Chobe District and the Eastern Caprivi Strip

Special Agreement[17]

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

[17] "Chapter I: Purposes and Principles (Articles 1-2) | United Nations." n.d. the United Nations. Accessed October 18, 2023. https://www.un.org/en/about-us/un-charter/chapter-1.