

## RULES OF COURT (1978)

### ADOPTED ON 14 APRIL 1978 AND ENTERED INTO FORCE ON 1 JULY 1978<sup>1</sup>

#### PREAMBLE\*

The Court,

Having regard to Chapter XIV of the Charter of the United Nations;  
Having regard to the Statute of the Court annexed thereto;  
Acting in pursuance of Article 30 of the Statute;  
Adopts the following Rules.

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\*Amendment entered into force on 14 April 2005.

<sup>[1]</sup>Any amendments to the Rules of Court, following their adoption by the Court, are now posted on the Court's website, with an indication of the date of their entry into force and a note of any temporal reservations relating to their applicability (for example, whether the application of the amended rule is limited to cases instituted after the date of entry into force of the amendment); they are also published in the Court's *Yearbook*. Articles amended since 1 July 1978 are marked with an asterisk and appear in their amended form.

#### PART I

#### THE COURT

#### SECTION A. JUDGES AND ASSESSORS

##### *Subsection 1. The Members of the Court*

##### *Article 1*

1. The Members of the Court are the judges elected in accordance with Articles 2 to 15 of the Statute.

2. For the purposes of a particular case, the Court may also include upon the Bench one or more persons chosen under Article 31 of the Statute to sit as judges *ad hoc*.

3. In the following Rules, the term “Member of the Court” denotes any elected judge; the term “judge” denotes any Member of the Court, and any judge *ad hoc*.

#### *Article 2*

1. The term of office of Members of the Court elected at a triennial election shall begin to run from the sixth of February<sup>1</sup> in the year in which the vacancies to which they are elected occur.

2. The term of office of a Member of the Court elected to replace a Member whose term of office has not expired shall begin to run from the date of the election.

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<sup>[1]</sup>This is the date on which the terms of office of the Members of the Court elected at the first election began in 1946.

#### *Article 3*

1. The Members of the Court, in the exercise of their functions, are of equal status, irrespective of age, priority of election or length of service.

2. The Members of the Court shall, except as provided in paragraphs 4 and 5 of this Article, take precedence according to the date on which their terms of office respectively began, as provided for by Article 2 of these Rules.

3. Members of the Court whose terms of office began on the same date shall take precedence in relation to one another according to seniority of age.

4. A Member of the Court who is re-elected to a new term of office which is continuous with his previous term shall retain his precedence.

5. The President and the Vice-President of the Court, while holding these offices, shall take precedence before all other Members of the Court.

6. The Member of the Court who, in accordance with the foregoing paragraphs, takes precedence next after the President and the Vice-President is in these Rules designated the “senior judge”. If that Member is unable to act, the Member of the Court who is next after him in precedence and able to act is considered as senior judge.

#### *Article 4*

1. The declaration to be made by every Member of the Court in accordance with Article 20 of the Statute shall be as follows:

“I solemnly declare that I will perform my duties and exercise my powers as judge honourably, faithfully, impartially and conscientiously.”

2. This declaration shall be made at the first public sitting at which the Member of the Court is present. Such sitting shall be held as soon as practicable after his term of office begins and, if necessary, a special sitting shall be held for the purpose.

3. A Member of the Court who is re-elected shall make a new declaration only if his new term is not continuous with his previous one.

#### *Article 5*

1. A Member of the Court deciding to resign shall communicate his decision to the President, and the resignation shall take effect as provided in Article 13, paragraph 4, of the Statute.

2. If the Member of the Court deciding to resign from the Court is the President, he shall communicate his decision to the Court, and the resignation shall take effect as provided in Article 13, paragraph 4, of the Statute.

#### *Article 6*

In any case in which the application of Article 18 of the Statute is under consideration, the Member of the Court concerned shall be so informed by the President or, if the circumstances so require, by the Vice-President, in a written statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Court specially convened for the purpose, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally or in writing, to any questions put to him. At a further private meeting, at which the Member of the Court concerned shall not be present, the matter shall be discussed; each Member of the Court shall state his opinion, and if requested a vote shall be taken.

#### *Subsection 2. Judges ad hoc*

#### *Article 7*

1. Judges *ad hoc*, chosen under Article 31 of the Statute for the purposes of particular cases, shall be admitted to sit on the Bench of the Court in the circumstances and according to the procedure indicated in Article 17, paragraph 2, Articles 35, 36, 37, Article 91, paragraph 2, and Article 102, paragraph 3, of these Rules.

2. They shall participate in the case in which they sit on terms of complete equality with the other judges on the Bench.

3. Judges *ad hoc* shall take precedence after the Members of the Court and in order of seniority of age.

#### *Article 8*

1. The solemn declaration to be made by every judge *ad hoc* in accordance with Articles 20 and 31, paragraph 6, of the Statute shall be as set out in Article 4, paragraph 1, of these Rules.

2. This declaration shall be made at a public sitting in the case in which the judge *ad hoc* is participating. If the case is being dealt with by a chamber of the Court, the declaration shall be made in the same manner in that chamber.

3. Judges *ad hoc* shall make the declaration in relation to any case in which they are participating, even if they have already done so in a previous case, but shall not make a new declaration for a later phase of the same case.

#### *Subsection 3. Assessors*

#### *Article 9*

1. The Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it without the right to vote.

2. When the Court so decides, the President shall take steps to obtain all the information relevant to the choice of the assessors.

3. The assessors shall be appointed by secret ballot and by a majority of the votes of the judges composing the Court for the case.

4. The same powers shall belong to the chambers provided for by Articles 26 and 29 of the Statute and to the presidents thereof, and may be exercised in the same manner.

5. Before entering upon their duties, assessors shall make the following declaration at a public sitting:

“I solemnly declare that I will perform my duties as an assessor honourably, impartially and conscientiously, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Court.”

### SECTION B. THE PRESIDENCY

#### *Article 10*

1. The term of office of the President and that of the Vice-President shall begin to run from the date on which the terms of office of the Members of the Court elected at a triennial election begin in accordance with Article 2 of these Rules.

2. The elections to the presidency and vice-presidency shall be held on that date or shortly thereafter. The former President, if still a Member of the Court, shall continue to exercise his functions until the election to the presidency has taken place.

#### *Article 11*

1. If, on the date of the election to the presidency, the former President is still a Member of the Court, he shall conduct the election. If he has ceased to be a Member of the Court, or is unable to act, the election shall be conducted by the Member of the Court exercising the functions of the presidency by virtue of Article 13, paragraph 1, of these Rules.

2. The election shall take place by secret ballot, after the presiding Member of the Court has declared the number of affirmative votes necessary for election; there shall be no nominations. The Member of the Court obtaining the votes of a majority of the Members composing it at the time of the election shall be declared elected, and shall enter forthwith upon his functions.

3. The new President shall conduct the election of the Vice-President either at the same or at the following meeting. The provisions of paragraph 2 of this Article shall apply equally to this election.

#### *Article 12*

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court.

#### *Article 13*

1. In the event of a vacancy in the presidency or of the inability of the President to exercise the functions of the presidency, these shall be exercised by the Vice-President, or failing him, by the senior judge.

2. When the President is precluded by a provision of the Statute or of these Rules either from sitting or from presiding in a particular case, he shall continue to exercise the functions of the presidency for all purposes save in respect of that case.

3. The President shall take the measures necessary in order to ensure the continuous exercise of the functions of the presidency at the seat of the Court.

In the event of his absence, he may, so far as is compatible with the Statute and these Rules, arrange for these functions to be exercised by the Vice-President, or failing him, by the senior judge.

4. If the President decides to resign the presidency, he shall communicate his decision in writing to the Court through the Vice-President, or failing him, the senior judge. If the Vice-President decides to resign his office, he shall communicate his decision to the President.

#### *Article 14*

If a vacancy in the presidency or the vice-presidency occurs before the date when the current term is due to expire under Article 21, paragraph 1, of the Statute and Article 10, paragraph 1, of these Rules, the Court shall decide whether or not the vacancy shall be filled during the remainder of the term.

### SECTION C. THE CHAMBERS

#### *Article 15*

1. The Chamber of Summary Procedure to be formed annually under Article 29 of the Statute shall be composed of five Members of the Court, comprising the President and Vice-President of the Court, acting ex officio, and three other members elected in accordance with Article 18, paragraph 1, of these Rules. In addition, two Members of the Court shall be elected annually to act as substitutes.

2. The election referred to in paragraph 1 of this Article shall be held as soon as possible after the sixth of February in each year. The members of the Chamber shall enter upon their functions on election and continue to serve until the next election; they may be re-elected.

3. If a member of the Chamber is unable, for whatever reason, to sit in a given case, he shall be replaced for the purposes of that case by the senior in precedence of the two substitutes.

4. If a member of the Chamber resigns or otherwise ceases to be a member, his place shall be taken by the senior in precedence of the two substitutes, who shall thereupon become a full member of the Chamber and be replaced by the election of another substitute. Should vacancies exceed the number of available substitutes, elections shall be held as soon as possible in respect of the vacancies still existing after the substitutes have assumed full membership and in respect of the vacancies in the substitutes.

#### *Article 16*

1. When the Court decides to form one or more of the Chambers provided for in Article 26, paragraph 1, of the Statute, it shall determine the particular category of cases for which each Chamber is formed, the number of its members, the period for which they will serve, and the date at which they will enter upon their duties.

2. The members of the Chamber shall be elected in accordance with Article 18, paragraph 1, of these Rules from among the Members of the Court, having regard to any special knowledge, expertise or previous experience which any of the Members of the Court may have in relation to the category of case the Chamber is being formed to deal with.

3. The Court may decide upon the dissolution of a Chamber, but without prejudice to the duty of the Chamber concerned to finish any cases pending before it.

#### *Article 17*

1. A request for the formation of a Chamber to deal with a particular case, as provided for in Article 26, paragraph 2, of the Statute, may be filed at any time until the closure of the written proceedings. Upon receipt of a request made by one party, the President shall ascertain whether the other party assents.

2. When the parties have agreed, the President shall ascertain their views regarding the composition of the Chamber, and shall report to the Court accordingly. He shall also take such steps as may be necessary to give effect to the provisions of Article 31, paragraph 4, of the Statute.

3. When the Court has determined, with the approval of the parties, the number of its Members who are to constitute the Chamber, it shall proceed to their election, in accordance with the provisions of Article 18, paragraph 1, of these Rules. The same procedure shall be followed as regards the filling of any vacancy that may occur on the Chamber.

4. Members of a Chamber formed under this Article who have been replaced, in accordance with Article 13 of the Statute following the expiration of their terms of office, shall continue to sit in all phases of the case, whatever the stage it has then reached.

#### *Article 18*

1. Elections to all Chambers shall take place by secret ballot. The Members of the Court obtaining the largest number of votes constituting a majority of the Members of the Court composing it at the time of the election shall be declared elected. If necessary to fill vacancies, more than one ballot

shall take place, such ballot being limited to the number of vacancies that remain to be filled.

2. If a Chamber when formed includes the President or Vice-President of the Court, or both of them, the President or Vice-President, as the case may be, shall preside over that Chamber. In any other event, the Chamber shall elect its own president by secret ballot and by a majority of votes of its members. The Member of the Court who, under this paragraph, presides over the Chamber at the time of its formation shall continue to preside so long as he remains a member of that Chamber.

3. The president of a Chamber shall exercise, in relation to cases being dealt with by that Chamber, all the functions of the President of the Court in relation to cases before the Court.

4. If the president of a Chamber is prevented from sitting or from acting as president, the functions of the presidency shall be assumed by the member of the Chamber who is the senior in precedence and able to act.

#### SECTION D. INTERNAL FUNCTIONING OF THE COURT

##### *Article 19*

The internal judicial practice of the Court shall, subject to the provisions of the Statute and these Rules, be governed by any resolutions on the subject adopted by the Court<sup>1</sup>.

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<sup>1</sup>The resolution now in force was adopted on 12 April 1976.

##### *Article 20*

1. The quorum specified by Article 25, paragraph 3, of the Statute applies to all meetings of the Court.

2. The obligation of Members of the Court under Article 23, paragraph 3, of the Statute, to hold themselves permanently at the disposal of the Court, entails attendance at all such meetings, unless they are prevented from attending by illness or for other serious reasons duly explained to the President, who shall inform the Court.

3. Judges *ad hoc* are likewise bound to hold themselves at the disposal of the Court and to attend all meetings held in the case in which they are participating. They shall not be taken into account for the calculation of the quorum.



4. The Court shall fix the dates and duration of the judicial vacations and the periods and conditions of leave to be accorded to individual Members of the Court under Article 23, paragraph 2, of the Statute, having regard in both cases to the state of its General List and to the requirements of its current work.

5. Subject to the same considerations, the Court shall observe the public holidays customary at the place where the Court is sitting.

6. In case of urgency the President may convene the Court at any time.

#### *Article 21*

1. The deliberations of the Court shall take place in private and remain secret. The Court may however at any time decide in respect of its deliberations on other than judicial matters to publish or allow publication of any part of them.

2. Only judges, and the assessors, if any, take part in the Court's judicial deliberations. The Registrar, or his deputy, and other members of the staff of the Registry as may be required shall be present. No other person shall be present except by permission of the Court.

3. The minutes of the Court's judicial deliberations shall record only the title or nature of the subjects or matters discussed, and the results of any vote taken. They shall not record any details of the discussions nor the views expressed, provided however that any judge is entitled to require that a statement made by him be inserted in the minutes.

## PART II

### THE REGISTRY

#### *Article 22*

1. The Court shall elect its Registrar by secret ballot from amongst candidates proposed by Members of the Court. The Registrar shall be elected for a term of seven years. He may be re-elected.

2. The President shall give notice of a vacancy or impending vacancy to Members of the Court, either forthwith upon the vacancy arising, or, where the vacancy will arise on the expiration of the term of office of the Registrar, not less than three months prior thereto. The President shall fix a date for the closure of the list of candidates so as to enable nominations and information concerning the candidates to be received in sufficient time.

3. Nominations shall indicate the relevant information concerning the candidate, and in particular information as to his age, nationality, and present occupation, university qualifications, knowledge of languages, and any previous experience in law, diplomacy or the work of international organizations.

4. The candidate obtaining the votes of the majority of the Members of the Court composing it at the time of the election shall be declared elected.

*Article 23*

The Court shall elect a Deputy-Registrar: the provisions of Article 22 of these Rules shall apply to his election and term of office.

*Article 24*

1. Before taking up his duties, the Registrar shall make the following declaration at a meeting of the Court:

“I solemnly declare that I will perform the duties incumbent upon me as Registrar of the International Court of Justice in all loyalty, discretion and good conscience, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Court.”

2. The Deputy-Registrar shall make a similar declaration at a meeting of the Court before taking up his duties.

*Article 25*

1. The staff-members of the Registry shall be appointed by the Court on proposals submitted by the Registrar. Appointments to such posts as the Court shall determine may however be made by the Registrar with the approval of the President.

2. Before taking up his duties, every staff-member shall make the following declaration before the President, the Registrar being present:

“I solemnly declare that I will perform the duties incumbent upon me as an official of the International Court of Justice in all loyalty, discretion and good conscience, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Court.”

*Article 26*

1. The Registrar, in the discharge of his functions, shall:

(a) be the regular channel of communications to and from the Court, and in particular shall effect all communications, notifications and transmission

of documents required by the Statute or by these Rules and ensure that the date of despatch and receipt thereof may be readily verified;

- (b) keep, under the supervision of the President, and in such form as may be laid down by the Court, a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry;
- (c) have the custody of the declarations accepting the jurisdiction of the Court made by States not parties to the Statute in accordance with any resolution adopted by the Security Council under Article 35, paragraph 2, of the Statute, and transmit certified copies thereof to all States parties to the Statute, to such other States as shall have deposited declarations, and to the Secretary-General of the United Nations;
- (d) transmit to the parties copies of all pleadings and documents annexed upon receipt thereof in the Registry;
- (e) communicate to the government of the country in which the Court or a Chamber is sitting, and any other governments which may be concerned, the necessary information as to the persons from time to time entitled, under the Statute and relevant agreements, to privileges, immunities, or facilities;
- (f) be present, in person or by his deputy, at meetings of the Court, and of the Chambers, and be responsible for the preparation of minutes of such meetings;
- (g) make arrangements for such provision or verification of translations and interpretations into the Court's official languages as the Court may require;
- (h) sign all judgments, advisory opinions and orders of the Court, and the minutes referred to in subparagraph (f);
- (i) be responsible for the printing and publication of the Court's judgments, advisory opinions and orders, the pleadings and statements, and minutes of public sittings in cases, and of such other documents as the Court may direct to be published;
- (j) be responsible for all administrative work and in particular for the accounts and financial administration in accordance with the financial procedures of the United Nations;

- (k) deal with enquiries concerning the Court and its work;
- (l) assist in maintaining relations between the Court and other organs of the United Nations, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law;
- (m) ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media;
- (n) have custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court<sup>1</sup>.

2. The Court may at any time entrust additional functions to the Registrar.

3. In the discharge of his functions the Registrar shall be responsible to the Court.

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<sup>[1]</sup>The Registrar also keeps the Archives of the Permanent Court of International Justice, entrusted to the present Court by decision of the Permanent Court of October 1945 (*I.C.J. Yearbook 1946-1947*, p. 26). and the Archives of the Trial of the Major War Criminals before the International Military Tribunal at Nuremberg (1945-1946), entrusted to the Court by decision of that Tribunal of 1 October 1946; the Court authorized the Registrar to accept the latter Archives by decision of 19 November 1949.

#### *Article 27*

1. The Deputy-Registrar shall assist the Registrar, act as Registrar in the latter's absence and, in the event of the office becoming vacant, exercise the functions of Registrar until the office has been filled.

2. If both the Registrar and the Deputy-Registrar are unable to carry out the duties of Registrar, the President shall appoint an official of the Registry to discharge those duties for such time as may be necessary. If both offices are vacant at the same time, the President, after consulting the Members of the Court, shall appoint an official of the Registry to discharge the duties of Registrar pending an election to that office.

#### *Article 28*

1. The Registry shall comprise the Registrar, the Deputy-Registrar, and such other staff as the Registrar shall require for the efficient discharge of his functions.

2. The Court shall prescribe the organization of the Registry, and shall for this purpose request the Registrar to make proposals.

3. Instructions for the Registry shall be drawn up by the Registrar and approved by the Court.

4. The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court.

#### *Article 29*

1. The Registrar may be removed from office only if, in the opinion of two-thirds of the Members of the Court, he has either become permanently incapacitated from exercising his functions, or has committed a serious breach of his duties.

2. Before a decision is taken under this Article, the Registrar shall be informed by the President of the action contemplated, in a written statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Court, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally or in writing, to any questions put to him.

3. The Deputy-Registrar may be removed from office only on the same grounds and by the same procedure.

### PART III

#### PROCEEDINGS IN CONTENTIOUS CASES

##### SECTION A. COMMUNICATIONS TO THE COURT AND CONSULTATIONS

#### *Article 30*

All communications to the Court under these Rules shall be addressed to the Registrar unless otherwise stated. Any request made by a party shall likewise be addressed to the Registrar unless made in open court in the course of the oral proceedings.

#### *Article 31*

In every case submitted to the Court, the President shall ascertain the views of the parties with regard to questions of procedure. For this purpose he shall summon the agents of the parties to meet him as soon as possible after their appointment, and whenever necessary thereafter.

## SECTION B. THE COMPOSITION OF THE COURT FOR PARTICULAR CASES

### *Article 32*

1. If the President of the Court is a national of one of the parties in a case he shall not exercise the functions of the presidency in respect of that case. The same rule applies to the Vice-President, or to the senior judge, when called on to act as President.

2. The Member of the Court who is presiding in a case on the date on which the Court convenes for the oral proceedings shall continue to preside in that case until completion of the current phase of the case, notwithstanding the election in the meantime of a new President or Vice-President. If he should become unable to act, the presidency for the case shall be determined in accordance with Article 13 of these Rules, and on the basis of the composition of the Court on the date on which it convened for the oral proceedings.

### *Article 33*

Except as provided in Article 17 of these Rules, Members of the Court who have been replaced, in accordance with Article 13, paragraph 3, of the Statute following the expiration of their terms of office, shall discharge the duty imposed upon them by that paragraph by continuing to sit until the completion of any phase of a case in respect of which the Court convenes for the oral proceedings prior to the date of such replacement.

### *Article 34*

1. In case of any doubt arising as to the application of Article 17, paragraph 2, of the Statute or in case of a disagreement as to the application of Article 24 of the Statute, the President shall inform the Members of the Court, with whom the decision lies.

2. If a party desires to bring to the attention of the Court facts which it considers to be of possible relevance to the application of the provisions of the Statute mentioned in the previous paragraph, but which it believes may not be known to the Court, that party shall communicate confidentially such facts to the President in writing.

### Article 35

1. If a party proposes to exercise the power conferred by Article 31 of the Statute to choose a judge *ad hoc* in a case, it shall notify the Court of its intention as soon as possible. If the name and nationality of the judge selected are not indicated at the same time, the party shall, not later than two months before the time-limit fixed for the filing of the Counter-Memorial, inform the Court of the name and nationality of the person chosen and supply brief biographical details. The judge *ad hoc* may be of a nationality other than that of the party which chooses him.

2. If a party proposes to abstain from choosing a judge *ad hoc*, on condition of a like abstention by the other party, it shall so notify the Court which shall inform the other party. If the other party thereafter gives notice of its intention to choose, or chooses, a judge *ad hoc*, the time-limit for the party which has previously abstained from choosing a judge may be extended by the President.

3. A copy of any notification relating to the choice of a judge *ad hoc* shall be communicated by the Registrar to the other party, which shall be requested to furnish, within a time-limit to be fixed by the President, such observations as it may wish to make. If within the said time-limit no objection is raised by the other party, and if none appears to the Court itself, the parties shall be so informed.

4. In the event of any objection or doubt, the matter shall be decided by the Court, if necessary after hearing the parties.

5. A judge *ad hoc* who has accepted appointment but who becomes unable to sit may be replaced.

6. If and when the reasons for the participation of a judge *ad hoc* are found no longer to exist, he shall cease to sit on the Bench.

### Article 36

1. If the Court finds that two or more parties are in the same interest, and therefore are to be reckoned as one party only, and that there is no Member of the Court of the nationality of any one of those parties upon the Bench, the Court shall fix a time-limit within which they may jointly choose a judge *ad hoc*.

2. Should any party amongst those found by the Court to be in the same interest allege the existence of a separate interest of its own, or put forward any other objection, the matter shall be decided by the Court, if necessary after hearing the parties.

### *Article 37*

1. If a Member of the Court having the nationality of one of the parties is or becomes unable to sit in any phase of a case, that party shall thereupon become entitled to choose a judge *ad hoc* within a time-limit to be fixed by the Court, or by the President if the Court is not sitting.

2. Parties in the same interest shall be deemed not to have a judge of one of their nationalities upon the Bench if the Member of the Court having one of their nationalities is or becomes unable to sit in any phase of the case.

3. If the Member of the Court having the nationality of a party becomes able to sit not later than the closure of the written proceedings in that phase of the case, that Member of the Court shall resume his seat on the Bench in the case.

## SECTION C. PROCEEDINGS BEFORE THE COURT

### *Subsection 1. Institution of Proceedings*

### *Article 38*

1. When proceedings before the Court are instituted by means of an application addressed as specified in Article 40, paragraph 1, of the Statute, the application shall indicate the party making it, the State against which the claim is brought, and the subject of the dispute.

2. The application shall specify as far as possible the legal grounds upon which the jurisdiction of the Court is said to be based; it shall also specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based.

3. The original of the application shall be signed either by the agent of the party submitting it, or by the diplomatic representative of that party in the country in which the Court has its seat, or by some other duly authorized person. If the application bears the signature of someone other than such diplomatic representative, the signature must be authenticated by the latter or by the competent authority of the applicant's foreign ministry.

4. The Registrar shall forthwith transmit to the respondent a certified copy of the application.

5. When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action



be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case.

#### *Article 39*

1. When proceedings are brought before the Court by the notification of a special agreement, in conformity with Article 40, paragraph 1, of the Statute, the notification may be effected by the parties jointly or by any one or more of them. If the notification is not a joint one, a certified copy of it shall forthwith be communicated by the Registrar to the other party.

2. In each case the notification shall be accompanied by an original or certified copy of the special agreement. The notification shall also, in so far as this is not already apparent from the agreement, indicate the precise subject of the dispute and identify the parties to it.

#### *Article 40*

1. Except in the circumstances contemplated by Article 38, paragraph 5, of these Rules, all steps on behalf of the parties after proceedings have been instituted shall be taken by agents. Agents shall have an address for service at the seat of the Court to which all communications concerning the case are to be sent. Communications addressed to the agents of the parties shall be considered as having been addressed to the parties themselves.

2. When proceedings are instituted by means of an application, the name of the agent for the applicant shall be stated. The respondent, upon receipt of the certified copy of the application, or as soon as possible thereafter, shall inform the Court of the name of its agent.

3. When proceedings are brought by notification of a special agreement, the party making the notification shall state the name of its agent. Any other party to the special agreement, upon receiving from the Registrar a certified copy of such notification, or as soon as possible thereafter, shall inform the Court of the name of its agent if it has not already done so.

#### *Article 41*

The institution of proceedings by a State which is not a party to the Statute but which, under Article 35, paragraph 2, thereof, has accepted the jurisdiction of the Court by a declaration made in accordance with any resolution adopted by the Security Council under that Article<sup>1</sup>, shall be accompanied by a deposit of the declaration in question, unless the latter has previously been deposited with the Registrar. If any question of the validity or effect of such declaration arises, the Court shall decide.

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<sup>[1]</sup>The resolution now in force was adopted on 15 October 1946.

*Article 42*

The Registrar shall transmit copies of any application or notification of a special agreement instituting proceedings before the Court to: (a) the Secretary-General of the United Nations; (b) the Members of the United Nations; (c) other States entitled to appear before the Court.

*Article 43*<sup>\*1</sup>

1. Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.

2. Whenever the construction of a convention to which a public international organization is a party may be in question in a case before the Court, the Court shall consider whether the Registrar shall so notify the public international organization concerned. Every public international organization notified by the Registrar may submit its observations on the particular provisions of the convention the construction of which is in question in the case.

3. If a public international organization sees fit to furnish its observations under paragraph 2 of this Article, the procedure to be followed shall be that provided for in Article 69, paragraph 2, of these Rules.

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\*Amendment entered into force on 29 September 2005.

<sup>[1]</sup>Article 43, paragraph 1, as amended, repeats unchanged the text of Article 43, as adopted on 14 April 1978.

Paragraphs 2 and 3 of the amended Article 43 are new.

*Subsection 2. The Written Proceedings*

*Article 44*

1. In the light of the information obtained by the President under Article 31 of these Rules, the Court shall make the necessary orders to determine, *inter alia*, the number and the order of filing of the pleadings and the time-limits within which they must be filed.

2. In making an order under paragraph 1 of this Article, any agreement between the parties which does not cause unjustified delay shall be taken into account.

3. The Court may, at the request of the party concerned, extend any time-limit, or decide that any step taken after the expiration of the time-limit fixed therefor shall be considered as valid, if it is satisfied that there is adequate justification for the request. In either case the other party shall be given an opportunity to state its views.

4. If the Court is not sitting, its powers under this Article shall be exercised by the President, but without prejudice to any subsequent decision of the Court. If the consultation referred to in Article 31 reveals persistent disagreement between the parties as to the application of Article 45, paragraph 2, or Article 46, paragraph 2, of these Rules, the Court shall be convened to decide the matter.

#### *Article 45*

1. The pleadings in a case begun by means of an application shall consist, in the following order, of: a Memorial by the applicant; a Counter-Memorial by the respondent.

2. The Court may authorize or direct that there shall be a Reply by the applicant and a Rejoinder by the respondent if the parties are so agreed, or if the Court decides, *proprio motu* or at the request of one of the parties, that these pleadings are necessary.

#### *Article 46*

1. In a case begun by the notification of a special agreement, the number and order of the pleadings shall be governed by the provisions of the agreement, unless the Court, after ascertaining the views of the parties, decides otherwise.

2. If the special agreement contains no such provision, and if the parties have not subsequently agreed on the number and order of pleadings, they shall each file a Memorial and Counter-Memorial, within the same time-limits. The Court shall not authorize the presentation of Replies unless it finds them to be necessary.

#### *Article 47*

The Court may at any time direct that the proceedings in two or more cases be joined. It may also direct that the written or oral proceedings,

including the calling of witnesses, be in common; or the Court may, without effecting any formal joinder, direct common action in any of these respects.

*Article 48*

Time-limits for the completion of steps in the proceedings may be fixed by assigning a specified period but shall always indicate definite dates. Such time-limits shall be as short as the character of the case permits.

*Article 49*

1. A Memorial shall contain a statement of the relevant facts, a statement of law, and the submissions.

2. A Counter-Memorial shall contain: an admission or denial of the facts stated in the Memorial; any additional facts, if necessary; observations concerning the statement of law in the Memorial; a statement of law in answer thereto; and the submissions.

3. The Reply and Rejoinder, whenever authorized by the Court, shall not merely repeat the parties' contentions, but shall be directed to bringing out the issues that still divide them.

4. Every pleading shall set out the party's submissions at the relevant stage of the case, distinctly from the arguments presented, or shall confirm the submissions previously made.

*Article 50*

1. There shall be annexed to the original of every pleading certified copies of any relevant documents adduced in support of the contentions contained in the pleading.

2. If only parts of a document are relevant, only such extracts as are necessary for the purpose of the pleading in question need be annexed. A copy of the whole document shall be deposited in the Registry, unless it has been published and is readily available.

3. A list of all documents annexed to a pleading shall be furnished at the time the pleading is filed.

*Article 51*

1. If the parties are agreed that the written proceedings shall be conducted wholly in one of the two official languages of the Court, the pleadings shall be submitted only in that language. If the parties are not so agreed, any pleading or any part of a pleading shall be submitted in one or other of the official languages.

2. If in pursuance of Article 39, paragraph 3, of the Statute a language other than French or English is used, a translation into French or English certified as accurate by the party submitting it, shall be attached to the original of each pleading.

3. When a document annexed to a pleading is not in one of the official languages of the Court, it shall be accompanied by a translation into one of these languages certified by the party submitting it as accurate. The translation may be confined to part of an annex, or to extracts therefrom, but in this case it must be accompanied by an explanatory note indicating what passages are translated. The Court may however require a more extensive or a complete translation to be furnished.

*Article 52<sup>\*1 2</sup>*

1. The original of every pleading shall be signed by the agent and filed in the Registry. It shall be accompanied by a certified copy of the pleading, documents annexed, and any translations, for communication to the other party in accordance with Article 43, paragraph 4, of the Statute, and by the number of additional copies required by the Registry, but without prejudice to an increase in that number should the need arise later.

2. All pleadings shall be dated. When a pleading has to be filed by a certain date, it is the date of the receipt of the pleading in the Registry which will be regarded by the Court as the material date.

3. The correction of a slip or error in any document which has been filed may be made at any time with the consent of the other party or by leave of the President. Any correction so effected shall be notified to the other party in the same manner as the pleading to which it relates.

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\*Amendment entered into force on 14 April 2005.

<sup>1</sup>The agents of the parties are requested to ascertain from the Registry the usual format of the pleadings.

<sup>2</sup>The text of Article 52, as adopted on 14 April 1978, contained a paragraph 3 concerning the procedure to be followed where the Registrar arranges for the printing of a pleading; this paragraph has been deleted and the footnote to the Article has been amended. Former paragraph 4 has been renumbered and is now paragraph 3.

*Article 53*

1. The Court, or the President if the Court is not sitting, may at any time decide, after ascertaining the views of the parties, that copies of the pleadings and documents annexed shall be made available to a State entitled to appear before it which has asked to be furnished with such copies.

2. The Court may, after ascertaining the views of the parties, decide that copies of the pleadings and documents annexed shall be made accessible to the public on or after the opening of the oral proceedings.

### *Subsection 3. The Oral Proceedings*

#### *Article 54*

1. Upon the closure of the written proceedings, the case is ready for hearing. The date for the opening of the oral proceedings shall be fixed by the Court, which may also decide, if occasion should arise, that the opening or the continuance of the oral proceedings be postponed.

2. When fixing the date for, or postponing, the opening of the oral proceedings the Court shall have regard to the priority required by Article 74 of these Rules and to any other special circumstances, including the urgency of a particular case.

3. When the Court is not sitting, its powers under this Article shall be exercised by the President.

#### *Article 55*

The Court may, if it considers it desirable, decide pursuant to Article 22, paragraph 1, of the Statute that all or part of the further proceedings in a case shall be held at a place other than the seat of the Court. Before so deciding, it shall ascertain the views of the parties.

#### *Article 56*

1. After the closure of the written proceedings, no further documents may be submitted to the Court by either party except with the consent of the other party or as provided in paragraph 2 of this Article. The party desiring to produce a new document shall file the original or a certified copy thereof, together with the number of copies required by the Registry, which shall be responsible for communicating it to the other party and shall inform the Court. The other party shall be held to have given its consent if it does not lodge an objection to the production of the document.

2. In the absence of consent, the Court, after hearing the parties, may, if it considers the document necessary, authorize its production.

3. If a new document is produced under paragraph 1 or paragraph 2 of this Article, the other party shall have an opportunity of commenting upon it and of submitting documents in support of its comments.

4. No reference may be made during the oral proceedings to the contents of any document which has not been produced in accordance with Article 43 of the Statute or this Article, unless the document is part of a publication readily available.

5. The application of the provisions of this Article shall not in itself constitute a ground for delaying the opening or the course of the oral proceedings.

#### *Article 57*

Without prejudice to the provisions of the Rules concerning the production of documents, each party shall communicate to the Registrar, in sufficient time before the opening of the oral proceedings, information regarding any evidence which it intends to produce or which it intends to request the Court to obtain. This communication shall contain a list of the surnames, first names, nationalities, descriptions and places of residence of the witnesses and experts whom the party intends to call, with indications in general terms of the point or points to which their evidence will be directed. A copy of the communication shall also be furnished for transmission to the other party.

#### *Article 58*

1. The Court shall determine whether the parties should present their arguments before or after the production of the evidence; the parties shall, however, retain the right to comment on the evidence given.

2. The order in which the parties will be heard, the method of handling the evidence and of examining any witnesses and experts, and the number of counsel and advocates to be heard on behalf of each party, shall be settled by the Court after the views of the parties have been ascertained in accordance with Article 31 of these Rules.

#### *Article 59*

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted. Such a decision or demand may concern either the whole or part of the hearing, and may be made at any time.

#### *Article 60*

1. The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.

2. At the conclusion of the last statement made by a party at the hearing, its agent, without recapitulation of the arguments, shall read that party's final submissions. A copy of the written text of these, signed by the agent, shall be communicated to the Court and transmitted to the other party.

#### *Article 61*

1. The Court may at any time prior to or during the hearing indicate any points or issues to which it would like the parties specially to address themselves, or on which it considers that there has been sufficient argument.

2. The Court may, during the hearing, put questions to the agents, counsel and advocates, and may ask them for explanations.

3. Each judge has a similar right to put questions, but before exercising it he should make his intention known to the President, who is made responsible by Article 45 of the Statute for the control of the hearing.

4. The agents, counsel and advocates may answer either immediately or within a time-limit fixed by the President.

#### *Article 62*

1. The Court may at any time call upon the parties to produce such evidence or to give such explanations as the Court may consider to be necessary for the elucidation of any aspect of the matters in issue, or may itself seek other information for this purpose.

2. The Court may, if necessary, arrange for the attendance of a witness or expert to give evidence in the proceedings.

#### *Article 63*

1. The parties may call any witnesses or experts appearing on the list communicated to the Court pursuant to Article 57 of these Rules. If at any time during the hearing a party wishes to call a witness or expert whose name was not included in that list, it shall so inform the Court and the other party, and shall supply the information required by Article 57. The witness or expert may be called either if the other party makes no objection or if the Court is satisfied that his evidence seems likely to prove relevant.



2. The Court, or the President if the Court is not sitting, shall, at the request of one of the parties or *proprio motu*, take the necessary steps for the examination of witnesses otherwise than before the Court itself.

*Article 64*

Unless on account of special circumstances the Court decides on a different form of words,

(a) every witness shall make the following declaration before giving any evidence:

“I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth”;

(b) every expert shall make the following declaration before making any statement:

“I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth, and that my statement will be in accordance with my sincere belief.”

*Article 65*

Witnesses and experts shall be examined by the agents, counsel or advocates of the parties under the control of the President. Questions may be put to them by the President and by the judges. Before testifying, witnesses shall remain out of court.

*Article 66*

The Court may at any time decide, either *proprio motu* or at the request of a party, to exercise its functions with regard to the obtaining of evidence at a place or locality to which the case relates, subject to such conditions as the Court may decide upon after ascertaining the views of the parties. The necessary arrangements shall be made in accordance with Article 44 of the Statute.

*Article 67*

1. If the Court considers it necessary to arrange for an enquiry or an expert opinion, it shall, after hearing the parties, issue an order to this effect, defining the subject of the enquiry or expert opinion, stating the number and mode of appointment of the persons to hold the enquiry or of the experts, and laying down the procedure to be followed. Where appropriate, the Court shall require persons appointed to carry out an enquiry, or to give an expert opinion, to make a solemn declaration.

2. Every report or record of an enquiry and every expert opinion shall be communicated to the parties, which shall be given the opportunity of commenting upon it.

*Article 68*

Witnesses and experts who appear at the instance of the Court under Article 62, paragraph 2, and persons appointed under Article 67, paragraph 1, of these Rules, to carry out an enquiry or to give an expert opinion, shall, where appropriate, be paid out of the funds of the Court.

*Article 69*

1. The Court may, at any time prior to the closure of the oral proceedings, either *proprio motu* or at the request of one of the parties communicated as provided in Article 57 of these Rules, request a public international organization, pursuant to Article 34 of the Statute, to furnish information relevant to a case before it. The Court, after consulting the chief administrative officer of the organization concerned, shall decide whether such information shall be presented to it orally or in writing, and the time-limits for its presentation.

2. When a public international organization sees fit to furnish, on its own initiative, information relevant to a case before the Court, it shall do so in the form of a Memorial to be filed in the Registry before the closure of the written proceedings. The Court shall retain the right to require such information to be supplemented, either orally or in writing, in the form of answers to any questions which it may see fit to formulate, and also to authorize the parties to comment, either orally or in writing, on the information thus furnished.

3. In the circumstances contemplated by Article 34, paragraph 3, of the Statute, the Registrar, on the instructions of the Court, or of the President if the Court is not sitting, shall proceed as prescribed in that paragraph. The Court, or the President if the Court is not sitting, may, as from the date on which the Registrar has communicated copies of the written proceedings and after consulting the chief administrative officer of the public international organization concerned, fix a time-limit within which the organization may submit to the Court its observations in writing. These observations shall be communicated to the parties and may be discussed by them and by the representative of the said organization during the oral proceedings.

4. In the foregoing paragraph, the term "public international organization" denotes an international organization of States.

*Article 70*

1. In the absence of any decision to the contrary by the Court, all speeches and statements made and evidence given at the hearing in one of the official languages of the Court shall be interpreted into the other official language. If they are made or given in any other language, they shall be interpreted into the two official languages of the Court.

2. Whenever, in accordance with Article 39, paragraph 3, of the Statute, a language other than French or English is used, the necessary arrangements for interpretation into one of the two official languages shall be made by the party concerned; however, the Registrar shall make arrangements for the verification of the interpretation provided by a party of evidence given on the party's behalf. In the case of witnesses or experts who appear at the instance of the Court, arrangements for interpretation shall be made by the Registry.

3. A party on behalf of which speeches or statements are to be made, or evidence given, in a language which is not one of the official languages of the Court, shall so notify the Registrar in sufficient time for him to make the necessary arrangements.

4. Before first interpreting in the case, interpreters provided by a party shall make the following declaration in open court:

“I solemnly declare upon my honour and conscience that my interpretation will be faithful and complete.”

#### *Article 71*

1. A verbatim record shall be made by the Registrar of every hearing, in the official language of the Court which has been used. When the language used is not one of the two official languages of the Court, the verbatim record shall be prepared in one of the Court's official languages.

2. When speeches or statements are made in a language which is not one of the official languages of the Court, the party on behalf of which they are made shall supply to the Registry in advance a text thereof in one of the official languages, and this text shall constitute the relevant part of the verbatim record.

3. The transcript of the verbatim record shall be preceded by the names of the judges present, and those of the agents, counsel and advocates of the parties.

4. Copies of the transcript shall be circulated to the judges sitting in the case, and to the parties. The latter may, under the supervision of the Court, correct the transcripts of speeches and statements made on their behalf, but in no case may such corrections affect the sense and bearing thereof. The judges

may likewise make corrections in the transcript of anything they may have said.

5. Witnesses and experts shall be shown that part of the transcript which relates to the evidence given, or the statements made by them, and may correct it in like manner as the parties.

6. One certified true copy of the eventual corrected transcript, signed by the President and the Registrar, shall constitute the authentic minutes of the sitting for the purpose of Article 47 of the Statute. The minutes of public hearings shall be printed and published by the Court.

#### *Article 72*

Any written reply by a party to a question put under Article 61, or any evidence or explanation supplied by a party under Article 62 of these Rules, received by the Court after the closure of the oral proceedings, shall be communicated to the other party, which shall be given the opportunity of commenting upon it. If necessary the oral proceedings may be reopened for that purpose.

### SECTION D. INCIDENTAL PROCEEDINGS

#### *Subsection 1. Interim Protection*

#### *Article 73*

1. A written request for the indication of provisional measures may be made by a party at any time during the course of the proceedings in the case in connection with which the request is made.

2. The request shall specify the reasons therefor, the possible consequences if it is not granted, and the measures requested. A certified copy shall forthwith be transmitted by the Registrar to the other party.

#### *Article 74*

1. A request for the indication of provisional measures shall have priority over all other cases.

2. The Court, if it is not sitting when the request is made, shall be convened forthwith for the purpose of proceeding to a decision on the request as a matter of urgency.

3. The Court, or the President if the Court is not sitting, shall fix a date for a hearing which will afford the parties an opportunity of being represented at it. The Court shall receive and take into account any

observations that may be presented to it before the closure of the oral proceedings.

4. Pending the meeting of the Court, the President may call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects.

#### *Article 75*

1. The Court may at any time decide to examine *proprio motu* whether the circumstances of the case require the indication of provisional measures which ought to be taken or complied with by any or all of the parties.

2. When a request for provisional measures has been made, the Court may indicate measures that are in whole or in part other than those requested, or that ought to be taken or complied with by the party which has itself made the request.

3. The rejection of a request for the indication of provisional measures shall not prevent the party which made it from making a fresh request in the same case based on new facts.

#### *Article 76*

1. At the request of a party the Court may, at any time before the final judgment in the case, revoke or modify any decision concerning provisional measures if, in its opinion, some change in the situation justifies such revocation or modification.

2. Any application by a party proposing such a revocation or modification shall specify the change in the situation considered to be relevant.

3. Before taking any decision under paragraph 1 of this Article the Court shall afford the parties an opportunity of presenting their observations on the subject.

#### *Article 77*

Any measures indicated by the Court under Articles 73 and 75 of these Rules, and any decision taken by the Court under Article 76, paragraph 1, of these Rules, shall forthwith be communicated to the Secretary-General of the United Nations for transmission to the Security Council in pursuance of Article 41, paragraph 2, of the Statute.

#### *Article 78*

The Court may request information from the parties on any matter connected with the implementation of any provisional measures it has indicated.

*Subsection 2. Preliminary Objections*

*Article 79\*<sup>1</sup>*

1. Any 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. Notwithstanding paragraph 1 above, following the submission of the application and after the President has met and consulted with the parties, the Court may decide that any questions of jurisdiction and admissibility shall be determined separately.

3. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it, notwithstanding Article 45, paragraph 1.

4. 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 mention any evidence which the party may desire to produce. Copies of the supporting documents shall be attached.

5. 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 within which the other party may present a written statement of its observations and submissions; documents in support shall be attached and evidence which it is proposed to produce shall be mentioned.

6. Unless otherwise decided by the Court, the further proceedings shall be oral.

7. The statements of facts and law in the pleadings referred to in paragraphs 4 and 5 of this Article, and the statements and evidence presented

at the hearings contemplated by paragraph 6, shall be confined to those matters that are relevant to the objection.

8. In order to enable the Court to determine its jurisdiction at the preliminary stage of the proceedings, the Court, whenever necessary, may request the parties to argue all questions of law and fact, and to adduce all evidence, which bear on the issue.

9. After hearing the parties, the Court shall give its decision in the form of a judgment, by which it shall either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character. If the Court rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time-limits for the further proceedings.

10. Any agreement between the parties that an objection submitted under paragraph 1 of this Article be heard and determined within the framework of the merits shall be given effect by the Court.

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\*Amendment entered into force on 1 February 2001. Article 79 of the Rules of Court as adopted on 14 April 1978 has continued to apply to all cases submitted to the Court prior to 1 February 2001.

<sup>[1]</sup>In Article 79, paragraph 1, as amended, the words “as soon as possible, and not later than three months after the delivery of the Memorial” have been substituted for the words “within the time-limit fixed for the delivery of the Counter-Memorial” contained in the text of this paragraph as adopted on 14 April 1978.

Paragraphs 2 and 3 of the amended Article 79 are new.

The former paragraphs 2 to 8 have been renumbered, respectively, as paragraphs 4 to 10.

### *Subsection 3. Counter-Claims*

#### *Article 80\*<sup>1</sup>*

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.

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\*Amendment entered into force on 1 February 2001. Article 80 of the Rules of Court as adopted on 14 April 1978 has continued to apply to all cases submitted to the Court prior to 1 February 2001.

<sup>[1]</sup>Article 80 of the Rules of Court as adopted on 14 April 1978 read as follows:

*"Article 80*

1. A counter-claim may be presented provided that it is directly connected with the subject-matter of the claim of the other party and that it comes within the jurisdiction of the Court.

2. A counter-claim shall be made in the Counter-Memorial of the party presenting it, and shall appear as part of the submissions of that party.

3. In the event of doubt as to the connection between the question presented by way of counter-claim and the subject-matter of the claim of the other party the Court shall, after hearing the parties, decide whether or not the question thus presented shall be joined to the original proceedings."

*Subsection 4. Intervention*

*Article 81*

1. An application for permission to intervene under the terms of Article 62 of the Statute, signed in the manner provided for in Article 38, paragraph 3, of these Rules, shall be filed as soon as possible, and not later than the closure of the written proceedings. In exceptional circumstances, an application submitted at a later stage may however be admitted.



2. The application shall state the name of an agent. It shall specify the case to which it relates, and shall set out:

- (a) the interest of a legal nature which the State applying to intervene considers may be affected by the decision in that case;
- (b) the precise object of the intervention;
- (c) any basis of jurisdiction which is claimed to exist as between the State applying to intervene and the parties to the case.

3. The application shall contain a list of the documents in support, which documents shall be attached.

#### *Article 82*

1. A State which desires to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall file a declaration to that effect, signed in the manner provided for in Article 38, paragraph 3, of these Rules. Such a declaration shall be filed as soon as possible, and not later than the date fixed for the opening of the oral proceedings. In exceptional circumstances a declaration submitted at a later stage may however be admitted.

2. The declaration shall state the name of an agent. It shall specify the case and the convention to which it relates and shall contain:

- (a) particulars of the basis on which the declarant State considers itself a party to the convention;
- (b) identification of the particular provisions of the convention the construction of which it considers to be in question;
- (c) a statement of the construction of those provisions for which it contends;
- (d) a list of the documents in support, which documents shall be attached.

3. Such a declaration may be filed by a State that considers itself a party to the convention the construction of which is in question but has not received the notification referred to in Article 63 of the Statute.

#### *Article 83*

1. Certified copies of the application for permission to intervene under Article 62 of the Statute, or of the declaration of intervention under Article 63 of the Statute, shall be communicated forthwith to the parties to the case, which shall be invited to furnish their written observations within a time-limit to be fixed by the Court or by the President if the Court is not sitting.

2. The Registrar shall also transmit copies to: (a) the Secretary-General of the United Nations; (b) the Members of the United Nations; (c) other States entitled to appear before the Court; (d) any other States which have been notified under Article 63 of the Statute.

#### *Article 84*

1. The Court shall decide whether an application for permission to intervene under Article 62 of the Statute should be granted, and whether an intervention under Article 63 of the Statute is admissible, as a matter of priority unless in view of the circumstances of the case the Court shall otherwise determine.

2. If, within the time-limit fixed under Article 83 of these Rules, an objection is filed to an application for permission to intervene, or to the admissibility of a declaration of intervention, the Court shall hear the State seeking to intervene and the parties before deciding.

#### *Article 85*

1. If an application for permission to intervene under Article 62 of the Statute is granted, the intervening State shall be supplied with copies of the pleadings and documents annexed and shall be entitled to submit a written statement within a time-limit to be fixed by the Court. A further time-limit shall be fixed within which the parties may, if they so desire, furnish their written observations on that statement prior to the oral proceedings. If the Court is not sitting, these time-limits shall be fixed by the President.

2. The time-limits fixed according to the preceding paragraph shall, so far as possible, coincide with those already fixed for the pleadings in the case.

3. The intervening State shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

#### *Article 86*

1. If an intervention under Article 63 of the Statute is admitted, the intervening State shall be furnished with copies of the pleadings and documents annexed, and shall be entitled, within a time-limit to be fixed by the Court, or by the President if the Court is not sitting, to submit its written observations on the subject-matter of the intervention.

2. These observations shall be communicated to the parties and to any other State admitted to intervene. The intervening State shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

#### *Subsection 5. Special Reference to the Court*

##### *Article 87*

1. When in accordance with a treaty or convention in force a contentious case is brought before the Court concerning a matter which has been the subject of proceedings before some other international body, the provisions of the Statute and of the Rules governing contentious cases shall apply.

2. The application instituting proceedings shall identify the decision or other act of the international body concerned and a copy thereof shall be annexed; it shall contain a precise statement of the questions raised in regard to that decision or act, which constitute the subject of the dispute referred to the Court.

#### *Subsection 6. Discontinuance*

##### *Article 88*

1. If at any time before the final judgment on the merits has been delivered the parties, either jointly or separately, notify the Court in writing that they have agreed to discontinue the proceedings, the Court shall make an order recording the discontinuance and directing that the case be removed from the list.

2. If the parties have agreed to discontinue the proceedings in consequence of having reached a settlement of the dispute and if they so desire, the Court may record this fact in the order for the removal of the case from the list, or indicate in, or annex to, the order, the terms of the settlement.

3. If the Court is not sitting, any order under this Article may be made by the President.

### *Article 89*

1. If in the course of proceedings instituted by means of an application, the applicant informs the Court in writing that it is not going on with the proceedings, and if, at the date on which this communication is received by the Registry, the respondent has not yet taken any step in the proceedings, the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. A copy of this order shall be sent by the Registrar to the respondent.

2. If, at the time when the notice of discontinuance is received, the respondent has already taken some step in the proceedings, the Court shall fix a time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings. If no objection is made to the discontinuance before the expiration of the time-limit, acquiescence will be presumed and the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. If objection is made, the proceedings shall continue.

3. If the Court is not sitting, its powers under this Article may be exercised by the President.

## SECTION E. PROCEEDINGS BEFORE THE CHAMBERS

### *Article 90*

Proceedings before the Chambers mentioned in Articles 26 and 29 of the Statute shall, subject to the provisions of the Statute and of these Rules relating specifically to the Chambers, be governed by the provisions of Parts I to III of these Rules applicable in contentious cases before the Court.

### *Article 91*

1. When it is desired that a case should be dealt with by one of the Chambers which has been formed in pursuance of Article 26, paragraph 1, or Article 29 of the Statute, a request to this effect shall either be made in the document instituting the proceedings or accompany it. Effect will be given to the request if the parties are in agreement.

2. Upon receipt by the Registry of this request, the President of the Court shall communicate it to the members of the Chamber concerned. He shall take such steps as may be necessary to give effect to the provisions of Article 31, paragraph 4, of the Statute.

3. The President of the Court shall convene the Chamber at the earliest date compatible with the requirements of the procedure.

#### *Article 92*

1. Written proceedings in a case before a Chamber shall consist of a single pleading by each side. In proceedings begun by means of an application, the pleadings shall be delivered within successive time-limits. In proceedings begun by the notification of a special agreement, the pleadings shall be delivered within the same time-limits, unless the parties have agreed on successive delivery of their pleadings. The time-limits referred to in this paragraph shall be fixed by the Court, or by the President if the Court is not sitting, in consultation with the Chamber concerned if it is already constituted.

2. The Chamber may authorize or direct that further pleadings be filed if the parties are so agreed, or if the Chamber decides, *proprio motu* or at the request of one of the parties, that such pleadings are necessary.

3. Oral proceedings shall take place unless the parties agree to dispense with them, and the Chamber consents. Even when no oral proceedings take place, the Chamber may call upon the parties to supply information or furnish explanations orally.

#### *Article 93*

Judgments given by a Chamber shall be read at a public sitting of that Chamber.

### SECTION F. JUDGMENTS, INTERPRETATION AND REVISION

#### *Subsection 1. Judgments*

#### *Article 94*

1. When the Court has completed its deliberations and adopted its judgment, the parties shall be notified of the date on which it will be read.

2. The judgment shall be read at a public sitting of the Court and shall become binding on the parties on the day of the reading.

#### *Article 95*

1. The judgment, which shall state whether it is given by the Court or by a Chamber, shall contain:

the date on which it is read;  
the names of the judges participating in it;  
the names of the parties;  
the names of the agents, counsel and advocates of the parties;  
a summary of the proceedings;  
the submissions of the parties;  
a statement of the facts;  
the reasons in point of law;  
the operative provisions of the judgment;  
the decision, if any, in regard to costs;  
the number and names of the judges constituting the majority;  
a statement as to the text of the judgment which is authoritative.

2. Any judge may, if he so desires, attach his individual opinion to the judgment, whether he dissents from the majority or not; a judge who wishes to record his concurrence or dissent without stating his reasons may do so in the form of a declaration. The same shall also apply to orders made by the Court.

3. One copy of the judgment duly signed and sealed, shall be placed in the archives of the Court and another shall be transmitted to each of the parties. Copies shall be sent by the Registrar to: (a) the Secretary-General of the United Nations; (b) the Members of the United Nations; (c) other States entitled to appear before the Court.

#### *Article 96*

When by reason of an agreement reached between the parties, the written and oral proceedings have been conducted in one of the Court's two official languages, and pursuant to Article 39, paragraph 1, of the Statute the judgment is to be delivered in that language, the text of the judgment in that language shall be the authoritative text.

#### *Article 97*

If the Court, under Article 64 of the Statute, decides that all or part of a party's costs shall be paid by the other party, it may make an order for the purpose of giving effect to that decision.

*Subsection 2. Requests for the Interpretation or Revision of a Judgment*

### *Article 98*

1. In the event of dispute as to the meaning or scope of a judgment any party may make a request for its interpretation, whether the original proceedings were begun by an application or by the notification of a special agreement.

2. A request for the interpretation of a judgment may be made either by an application or by the notification of a special agreement to that effect between the parties; the precise point or points in dispute as to the meaning or scope of the judgment shall be indicated.

3. If the request for interpretation is made by an application, the requesting party's contentions shall be set out therein, and the other party shall be entitled to file written observations thereon within a time-limit fixed by the Court, or by the President if the Court is not sitting.

4. Whether the request is made by an application or by notification of a special agreement, the Court may, if necessary, afford the parties the opportunity of furnishing further written or oral explanations.

### *Article 99*

1. A request for the revision of a judgment shall be made by an application containing the particulars necessary to show that the conditions specified in Article 61 of the Statute are fulfilled. Any documents in support of the application shall be annexed to it.

2. The other party shall be entitled to file written observations on the admissibility of the application within a time-limit fixed by the Court, or by the President if the Court is not sitting. These observations shall be communicated to the party making the application.

3. The Court, before giving its judgment on the admissibility of the application may afford the parties a further opportunity of presenting their views thereon.

4. If the Court finds that the application is admissible it shall fix time-limits for such further proceedings on the merits of the application as, after ascertaining the views of the parties, it considers necessary.

5. If the Court decides to make the admission of the proceedings in revision conditional on previous compliance with the judgment, it shall make an order accordingly.

#### *Article 100*

1. If the judgment to be revised or to be interpreted was given by the Court, the request for its revision or interpretation shall be dealt with by the Court. If the judgment was given by a Chamber, the request for its revision or interpretation shall be dealt with by that Chamber.

2. The decision of the Court, or of the Chamber, on a request for interpretation or revision of a judgment shall itself be given in the form of a judgment.

### SECTION G. MODIFICATIONS PROPOSED BY THE PARTIES

#### *Article 101*

The parties to a case may jointly propose particular modifications or additions to the rules contained in the present Part (with the exception of Articles 93 to 97 inclusive), which may be applied by the Court or by a Chamber if the Court or the Chamber considers them appropriate in the circumstances of the case.

### PART IV

#### ADVISORY PROCEEDINGS

#### *Article 102*

1. In the exercise of its advisory functions under Article 65 of the Statute, the Court shall apply, in addition to the provisions of Article 96 of the Charter and Chapter IV of the Statute, the provisions of the present Part of the Rules.

2. The Court shall also be guided by the provisions of the Statute and of these Rules which apply in contentious cases to the extent to which it recognizes them to be applicable. For this purpose, it shall above all consider whether the request for the advisory opinion relates to a legal question actually pending between two or more States.

3. When an advisory opinion is requested upon a legal question actually pending between two or more States, Article 31 of the Statute shall apply, as also the provisions of these Rules concerning the application of that Article.



### *Article 103*

When the body authorized by or in accordance with the Charter of the United Nations to request an advisory opinion informs the Court that its request necessitates an urgent answer, or the Court finds that an early answer would be desirable, the Court shall take all necessary steps to accelerate the procedure, and it shall convene as early as possible for the purpose of proceeding to a hearing and deliberation on the request.

### *Article 104*

All requests for advisory opinions shall be transmitted to the Court by the Secretary-General of the United Nations or, as the case may be, the chief administrative officer of the body authorized to make the request. The documents referred to in Article 65, paragraph 2, of the Statute shall be transmitted to the Court at the same time as the request or as soon as possible thereafter, in the number of copies required by the Registry.

### *Article 105*

1. Written statements submitted to the Court shall be communicated by the Registrar to any States and organizations which have submitted such statements.

2. The Court, or the President if the Court is not sitting, shall:

- (a) determine the form in which, and the extent to which, comments permitted under Article 66, paragraph 4, of the Statute shall be received, and fix the time-limit for the submission of any such comments in writing;
- (b) decide whether oral proceedings shall take place at which statements and comments may be submitted to the Court under the provisions of Article 66 of the Statute, and fix the date for the opening of such oral proceedings.

### *Article 106*

The Court, or the President if the Court is not sitting, may decide that the written statements and annexed documents shall be made accessible to the public on or after the opening of the oral proceedings. If the request for advisory opinion relates to a legal question actually pending between two or more States, the views of those States shall first be ascertained.

### *Article 107*

1. When the Court has completed its deliberations and adopted its advisory opinion, the opinion shall be read at a public sitting of the Court.

2. The advisory opinion shall contain:

the date on which it is delivered;

the names of the judges participating;

a summary of the proceedings;

a statement of the facts;

the reasons in point of law;

the reply to the question put to the Court;

the number and names of the judges constituting the majority;

a statement as to the text of the opinion which is authoritative.

3. Any judge may, if he so desires, attach his individual opinion to the advisory opinion of the Court, whether he dissents from the majority or not; a judge who wishes to record his concurrence or dissent without stating his reasons may do so in the form of a declaration.

#### *Article 108*

The Registrar shall inform the Secretary-General of the United Nations, and, where appropriate, the chief administrative officer of the body which requested the advisory opinion, as to the date and the hour fixed for the public sitting to be held for the reading of the opinion. He shall also inform the representatives of the Members of the United Nations and other States, specialized agencies and public international organizations immediately concerned.

#### *Article 109*

One copy of the advisory opinion, duly signed and sealed, shall be placed in the archives of the Court, another shall be sent to the Secretary-General of the United Nations and, where appropriate, a third to the chief administrative officer of the body which requested the opinion of the Court. Copies shall be sent by the Registrar to the Members of the United Nations and to any other States, specialized agencies and public international organizations immediately concerned.

Rosalyn HIGGINS,

*(Signed)*

President.

R,

*(Signed)* Ph. COUVREU

Registrar.