

OFFICIAL RULES
FOR THE
INTERNATIONAL
DIVISION
OF THE
1983
PHILIP C. JESSUP
INTERNATIONAL LAW MOOT COURT COMPETITION

The Association of Student International
Law Societies
The American Society of International Law
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I. ORGANIZATION

The Philip C. Jessup International Law Moot Court Competition is sponsored annually by the Association of Student International Law Societies (ASILS) and the American Society of International Law (ASIL) for students enrolled in ASILS member schools and other invited law schools. The Competition, administered by the Executive Secretary of the ASILS (hereinafter the Executive Secretary), consists of three levels of argument, (Regionals, Semi-Final, and Final). Domestic Regionals shall be held in designated geographic areas of the United States. Regionals in other countries shall be held at the option of the Executive Secretary and the organizer in that country. Semi-final and Final Rounds shall be held in Washington, D.C.

II. THE PROBLEM

The hypothetical fact pattern upon which the Competition is based will be written each year by a scholar of international law, on a subject of timely interest.

III. ELIGIBILITY

Eligible to participate in the International Division are those teams selected in countries outside the United States as a result of regional competitions as per Article I, or in such other manner as deemed appropriate by the Executive Secretary and the organizer in the given country.

IV. TEAMS

A. Number: Each country outside the United States may enter one team in the International Division if approved by the Executive Secretary.

B. Composition: A team shall be composed of not less than two and not more than five students, who alone have researched and written the memorials. The names of all team members must be transmitted to the Executive Secretary not later than January 15, 1983. The fact that a team may include up to five students is not meant to imply that more than two students must or should be sent.

Any member of a team may act as an oralist during the argument of any competition. However, to be eligible for any oralist award a competitor must have argued twice during the competition. Only two oralists will argue in each round.

During each round, a third team member may sit at the table with the oralists as counsel. The person acting as counsel must be one of the five team members. Moreover, the person acting as counsel need not be the same person in each argument. Only the judges, the two oralists and the person designated as counsel may communicate during the argument. There shall be no communication between the counsel table and any other individual during the argument, including the oralist while he is arguing.

Only students who have not completed legal studies sufficient to enable them to practice law will be allowed to participate. Therefore, persons pursuing degrees higher than the basic law degree are ineligible while persons who have finished academic studies, but are required by their country's system to apprentice with a lawyer before being able to practice law, are eligible.

No team in the International Division may have as a member anyone who has attended an American law school for more than one academic year, unless such person is a citizen of the country represented by the team.

V. INTERNATIONAL DIVISION SEMI-FINAL COMPETITION

A. Time and Place of the Competition. The International Division Semi-Final Competition will be held in conjunction with the Annual Meeting of the American Society of International Law in Washington, D.C., April 14-16, 1983. Orientation will begin on April 10.

Initial pairing shall be final, except as modified by the Executive Secretary because of deletion or addition of a team or teams. Each team in the Division will be assigned a number by the Executive Secretary and must always be referred to on memorials and by others only by number and not by school name or by country.

B. Semi-Final Rounds

1. Oral Arguments and Judging: The International Division of the Semi-Finals shall consist of four rounds of oral arguments. Each team shall argue two rounds as the applicant and two rounds as the respondent.

Each round of oral argument shall be judged by a panel of three judges. Permission of the Executive Secretary may be given in extraordinary circumstances to allow a panel of two judges to hear a round. In such cases special scoring will be used (see sec. VII(A)).

2. Memorial Judges: Each memorial shall receive scores from three different judges except in extraordinary circumstances and with special permission of the Executive Secretary. Each of the three judges shall score the memorial independently of his colleagues, assigning a numerical score in accordance with the Memorial Scoring Instructions, infra. Each memorial judge shall submit his scores to the Executive Secretary prior to the first argument of the competition.

3. Scouting: No team member or person affiliated with that team may attend a round in which a prospective opponent team is participating. Any team member or affiliated person who wishes to attend any other round must obtain advance permission from the two arguing teams. No taping of arguments will be allowed.

4. Interpretation of Rules: If there is any question about the interpretation of Rules during oral arguments at the Semi-Finals, such questions must go to the Executive Secretary. The timekeepers have no power to interpret the Rules. Any detrimental reliance on an interpretation by a timekeeper will not prevent a penalty from being imposed later if the Executive Secretary's interpretation differs from that of a timekeeper.

C. Memorials

1. Identification: No school names or addresses of any kind shall appear anywhere on the memorials. The memorial shall be identified only by a number designated by the Executive Secretary. The names of individual team members shall appear on the cover. Team members may sign the memorial at the conclusion.

2. Required Memorials: Each team in the competition shall prepare an applicant's memorial and a respondent's memorial.

3. Length: The body of the memorial shall be no more than 25 pages in length. The 25 page limitation shall include the conclusion, annexes, appendices and footnotes. The Table of Contents, Index of Authorities, Jurisdiction, Statement of Facts, Questions Presented, Summary of Argument, title page and back cover (if any) are excluded from the 25 page restriction.

Footnotes may be placed at the bottom of the page, within the body of the argument or at the end of the memorial. No issue or argument not discussed within the body of the memorial shall be included in any other section of the memorial. Footnotes may not be argumentative (footnotes may not be used to bypass the length limitation by placing substantive arguments in them).

The argument section of the memorial must be double spaced. Footnotes and titles more than one line in length may be single spaced. Quotes of fifty words or more may be single spaced as required by Harvard's Uniform System of Citation. All portions of the memorial other than the argument section may be single spaced.

8 1/2" x 11" paper is to be used in the memorial unless such paper is not practicably available. Then the standard legal paper of the individual country may be used.

4. Prohibition on submission of additional written memorials: No written materials, other than the memorials, may be submitted by a team to oral judges, prior to, during, or after the argument.

5. Form: Memorials must be typewritten and reproduced by mimeograph, Xerox or offset. No part of the memorial, including the cover, shall be otherwise printed or press-typed.

Any type style is permissible except that no type smaller than standard elite (12 spaces to the inch) may be used. Standard pica is preferred.

Memorials must be fastened by staples; no other type of fastening (such as ring binding or tape) is permitted. There should be two staples across the top or two to three staples along the left side of the memorial.

Applicant and respondent memorials must be differentiated by different colored covers.

6. Citations and Footnotes: (see Annex B). The form of citations used shall be in accordance with the rules of the twelfth edition of a UNIFORM SYSTEM OF CITATION. Footnotes may be placed either at the bottom of the page, within the body of the argument, or at the end of the memorial.

7. Mailing of Memorials: Mailing of memorials must be done by postage stamps. Use of metered stamps is prohibited, either private or post office. If the post office refuses to give postage stamps, proof thereof must be obtained to avoid penalty assessment.

8. Submission of Memorials: Each team shall mail 17 copies of its applicant memorial and 17 copies of its respondent memorial to the Executive Secretary for use by the judges. Non-metered stamps must be used, and mailing must be by air. Deadline for these mailings: Midnight, March 1, 1983.

9. Revision of Memorials: No team may revise, substitute, add, delete, or in any other manner alter its memorials after the deadline for their submission. However, if a revision is made on a non-substantive part of the memorial (substantive part of the memorial is the argument section) or if pages are inadvertently left out in the collating process either in the substantive or non-substantive section of the memorial, for example, then a discretionary penalty may be imposed by the Regional Administrator in assessing the facts.

10. Statement of Facts: The Statement of Facts, if included in the memorial, shall be limited to the stipulated facts and necessary inferences. The facts should not include unsupported facts, distortions of stated facts or legal conclusions.

D. Exhibits: The use of exhibits, other than documents or handouts, is permitted. Teams requiring special equipment in connection with an exhibit to be used during the oral argument (such as blackboard, holders for charts, pointers, lights, etc.) shall so inform the Regional Administrator no later than 10 days prior to the beginning of the Regional Competition. A team using exhibits is to notify their opposing teams as soon as practicable after receiving the pairings.

E. Oral Communication: No oral or written communication may take place between counsel table and an oralist while the oralist is presenting his or her argument (this does not, however, preclude an oralist from taking a treaty or similar document from the counsel table when the oralist has been questioned about such documents).

No oral or written communication may take place between counsel table and any spectator or team member not at the counsel table during a round.

G. Awards: One award for the best memorial shall be given by the Regional Administrator to the team receiving the highest combined score from the memorial judging panel for its two memorials (after the imposition of any penalties). An award shall be given by the Regional Administrator to the best individual oralist. Awards will be given by the Regional Administrator to the first place and runner-up teams.

VI. PENALTIES

The following is an inclusive list of penalties which may be imposed on a team. It is extremely important that each team have a thorough understanding of the contents of this section. The issue of penalties arises when the Executive Secretary as a result of his or her own motion or as a result of a complaint must ascertain the facts of a situation in order to determine if an infraction has occurred. All complaints must be addressed to the Executive Secretary and the team accused of a violation. The accused team shall be allowed to reply to the accusation. Upon receipt of complaint and reply, the Executive Secretary shall make prompt a decision as to whether a penalty is warranted.

Complaints pertaining to memorials must be submitted in writing to the Executive Secretary and the allegedly violating team prior to the commencement of the competition orientation session.

Complaints pertaining to oral arguments must be submitted prior to completion. Penalty points will be assessed against the score given by each (as appropriate) oral judge in the round or each of the memorial judges.

The power of the Executive Secretary to assess penalties is divided into two categories: nondiscretionary and discretionary.

A. Nondiscretionary Penalties: For the following, the Executive Secretary on his or her own motion or as a result of a complaint, will determine the facts of the situation as they apply to the alleged infraction. If he or she determines that the facts constitute a violation, then a penalty will be assessed mechanically with the Executive Secretary having no discretion in the matter. This means that there can be no ameliorative attempts, equitable remedies, or waiver of the rules by the Executive Secretary nor by the competitors except as per VI(c).

1. MEMORIAL RULES.
Violation

PENALTY

- | | |
|--|--|
| <ul style="list-style-type: none"> a. Tardiness in submitting any memorial either to the Executive Secretary, Regional Administrator, or the opposing teams (for memorials postmarked March 2,3, 1983. b. Extreme tardiness in submitting any memorial (for memorials postmarked March 4-14, 1983. | <ul style="list-style-type: none"> 6 points 2 additional points per day. |
|--|--|

c. Unacceptable tardiness in submitting any memorial (for memorials post-marked after March 14, 1983).

PENALTY
Elimination from Competition or a score of 60 if remaining in competition would not be prejudicial to the Competition.

d. Failure to mail memorials with postage stamps

6 points

e. Excessive memorial length

2 points per page over 25 pages.

f. Form violation (see section V(C)(5))

2 points per category of violation.

g. Revision after submission date (See Section V(C)(9))

6 points.

2. ORAL ARGUMENT RULES

Violation

PENALTY

a. Communication between counsel table and any person (other than judges) during the argument.

4 points

b. Submission of any additional written materials to oral judges, whether prior to, during, or after argument.

4 points.

c. Scouting

Loss of the individual round. (Scouted team to receive all 6 oral points for the round but only those memorial points it would have received as a result of the judges scoring).

B. Discretionary Penalties. The Administrator may assess 2, 4 or 6 point penalties (oral or memorial, depending upon time of infraction for each action by a team which substantially prejudices the conduct of the Competition. Penalties of 2, 4 or 6 points may also be assessed by the Administrator for:

1. Persistent violation of citation form which results in the inability to find the material cited.
2. De-minimus violation as to revision of memorials.
3. Argumentative footnotes used to bypass length restrictions.

4. A statement of facts which materially distorts the applicable fact pattern (as described in V (C) (10)).

C. De-Minimus Rule: When the impact of an alleged violation is as insignificant as to be minimus, the Executive Secretary may waive any assessed penalty.

When circumstances arise which are not the fault of the participants and which preclude any reasonable means of avoiding a violation of the rules, the Executive Secretary shall evaluate the facts and may determine that a penalty shall not be assessed. (This is to account for things like a postal strike at the time memorials are to be mailed, etc). However, this power is not to be used to bypass the stringent guidelines established by these Official Rules.

VII. SCORING

In determining the winner of each individual round, penalties must be accounted for. A penalty assessed against a memorial is subtracted from each judge's score before determining which team is awarded the memorial points (for example, if Team A's applicant memorial is penalized 2 points, each of the applicant scores given by the memorial judge to Team A will be reduced by 2 before comparing it to their opponent's memorial).

A penalty assessed against oral argument will be subtracted from the total speakers' points for the round given by each judge before determining the winner selected by each judge. A score sheet and scoring instructions shall be given to each judge.

A. Winner of a Round: There are nine possible judge's points for each round. Points are awarded as follows:

Memorial Points - 3 Total

Due to the large number of teams participating in the Competition it is impossible to find judges to read every set of memorials. To offset scoring discrepancies between different judging panels, memorial points will be awarded as follows:

1. The three scores given each memorial shall be averaged.
2. The appropriate averages of opposing teams shall be compared.
3. If there is a differential of eight or more points between the scores, the team with the higher score will receive all three memorial points. If the difference is one to seven points, the team with the higher score receives two points and the team with the lower average will receive one point. If the two teams have the same average, each receives 1.5 memorial points.

At the Regional level, if the number of teams is not so great, one judge's point should be awarded each time a team's memorial is scored higher than its opponent's memorial by a memorial judge.

Oral Points - 6 Total

Two points are given for each oral judge that scores a team higher than its opponent in oral argument.

In extraordinary circumstances, the Executive Secretary may authorize the use of two-member judging panels for memorials or oral arguments.

Where a two-judge panel is used for oral argument, three judge's points are awarded to a team each time one of the judges scores the team higher than its opponent.

B. Winner of a Competition: The winner of a Competition (Regional or Semi-Final) shall be the team with the best won/loss record from the four rounds in that Competition. If two or more teams have the same won/loss record, their ranking in the Competition shall be determined by comparing their total raw scores for memorials (600 possible points) plus oral arguments (2400 possible points). If two or more teams have the same total raw scores, their ranking shall be determined by comparing their totals of judges points. The team with the greater total out of thirty-six shall be ranked higher (there are thirty-six possible points: nine points per round.

The top two teams in the Semi-Final Rounds shall face each other in a run-off round to determine the winner of the International Division.

C. Jessup Cup Round: The Jessup Cup Round shall be an argument between the winner of the National and International Divisions of the Semi-Final Competition. There shall be a panel of three judges, each judge having one vote. After considering both the memorials and oral arguments, each judge shall rank the teams either 1 or 2. The team receiving the lowest combined ranking score wins the Final Round and becomes the Jessup Champion.

D. Best Memorial Winner: The winner of the Best Memorial Award shall be determined by the cumulative total of 100 point based scores of the three memorial judges. The highest possible score is 600 (300 for Applicant plus 300 for Respondent). The team with the greatest number of points is the winner. However, penalty points are deducted from each appropriate memorial score before computing a team's total (e.g. if only Team A's applicant memorial is penalized two points, each applicant score is reduced by two before computing the final total).

E. Best Oralist: The winner of the Best Oralist Award shall be that person with the highest average individual oral score, computed as follows: For each oralist, total all individual oral scores received and divide by the number of oral judges scoring that oralist. To qualify a participant must argue at least twice during the round. If an oralist argues more than 2 rounds, he or she shall indicate, prior to the start of the rounds, which two arguments should be used for the Best Oralist calculations. In no event shall the score from more than two rounds be used to calculate Best Oralist results.

VIII. OUTSIDE ASSISTANCE

Outside assistance rendered to a team in the preparation of its case, including that from faculty members, shall be limited to general discussion of issues, suggestions as to research sources, and decision-making in intramural eliminations. Once the basic research of the topic has been completed, further discussion of the issue with such outside advisers should be terminated. Those who have rendered outside assistance, and who are later requested to act as judges in practice rounds, shall be requested to limit their questioning as judges only to those areas of the law which have been previously discussed. After the basic research is completed, critiques going to the substantive issues are prohibited. Those requested to act as judges must be informed of these rules. The purpose of these rules is to develop an unassisted appreciation and understanding of international law through individual and team efforts.

IX. PROMULGATION OF ADDITIONAL RULES.

Either the Executive Secretary, or a Regional Administrator with the Executive Secretary's approval, may interpret the Official Rules, and may promulgate, prior to the conclusion of the Regional or Semi-Finals, such other measures as may be deemed advisable for the orderly conduct of a competition, provided that these measures do not conflict with any of the Official Rules.

X. ANNUAL REPORT

After the Final Round, the Executive Secretary shall send a report to all teams that participated in the Competition. This report shall, at a minimum, indicate the winners, best memorials, and best oralists in the Regional Round; the winner, best memorial and oralist awards in both Semi-Final divisions; and the winner of the Final Round.

ANNEX A

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TREATIES AND OTHER INTERNATIONAL AGREEMENTS

Treaty on Commerce and Navigation, Dec. 3, 1938,
United States-Iraq, art. III, para 2. 56 Stat.
1790; T.S. No. 960. 7

STATUTES

International Claims Settlement Act of 1949,
as amended, 22 U.S.C. § 1641. (1970). 4

Law of Jan. 15, 1957 [1957] Bundesgesetzblatt
[BGB] I 343 (Fed. Rep. of Ger.). 8

CASES

Advisory Opinion on Certain Expenses of the United
Nations, [1962] I.C.J. 151. 9

TREATISES, DIGESTS, RESTATEMENTS

R. Lillich, The Protection of Foreign
Investment: Six Procedural Studies (1965). 15

ARTICLES

Carey, Self-Determination in the Post-
Colonial Era: The Case of Quebec, 1 ASILS Int'l
L.J. 47 (1977). 21

NOTE: This form is only an example, and may be altered as
teams see fit. Citations should, however, conform to the
latest edition of A Uniform System of Citation to the greatest
degree practicable.

PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

ORAL SCORING INSTRUCTIONS
(Please Review Prior To Oral Arguments)

Each team is given 45 minutes to argue, of which no more than 10 minutes may be reserved for rebuttal or surrebuttal. No single oralist shall argue longer than 25 minutes. Extension of team time beyond 45 minutes, which in no case shall exceed 10 minutes beyond the total time allocated for presentation, shall be within the discretion of the judges. Strict anonymity of school identities shall be ensured as far as is possible. Teams shall be identified throughout the rounds only by number, not by names of schools.

During the argument, each oral judge should tentatively score each oralist at the conclusion of his or her presentation. Following the argument, the judges shall retire to deliberate. They shall then individually mark their scoring summaries without comparisons with the scoring summaries of their fellow judges.

Team scores shall be the total of the two individual oralist scores. The team with the greater total wins that Judge's ballot.

Please evaluate each speaker independently rather than in comparison to the other speakers in the round (or other rounds you may have judged). Each judge should start at an average score (70-79) and move up or down from there. A general guidelines is: Excellent (90-100); good (80-89); average (70-79); poor (60-69).

Factors to be considered in assessing points without regard to order if importance include, but are not limited to:

- | | |
|--|--|
| 1) Correct and articulate analysis of the issues | 6) Ingenuity |
| 2) Familiarity with international authorities | 7) Organization |
| 3) Response to questions | 8) Persuasiveness |
| 4) General knowledge of the substance and process of international law | 9) Ability to argue by analogy from related aspects of international law |
| 5) Clarity | 10) Knowledge of the facts |
| | 11) Knowledge of legal principles directly applicable to the facts. |

Judges should be familiar with the Problem, the law, and the teams' memorials before judging. The judges' Bench Memo outlines most of the issues in the case and should be read carefully. However, the Bench Memo is not the only solution to the problem and should not be regarded as such.

Since a team has no choice as to which side of the dispute it must argue in a given Round, scoring should not reflect the merits of the case but only the advocacy skills and legal analysis of the participants.

Judges should feel free to question oralists at any point in the argument, but should also bear in mind the importance of affording oralists the opportunity to "make their case."

MEMORIAL SCORING INSTRUCTIONS

PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

Memorials shall be scored individually by each Memorial judge independently of his colleagues, by assigning a grade between 60 and 100. Excellent is 90-100; good is 80-89; average is 70-79; and poor is 60-69. To avoid a tie between memorial scores, all scores for applicants shall be even numbered, and all scores for respondent shall be odd numbered. These scoring requirements shall not be construed to discourage a comparison of applicant's memorial with respondent's memorial. The scoring factors to be considered (without regard to their order of importance) include, but are not limited to:

1. Knowledge of the facts and the legal principles directly applicable to the facts
2. Proper and articulate analysis of the issues involved
3. Use of authorities and extent of research
4. Logic and reasoning
5. Ingenuity (ability to argue by analogy from related aspects of international law)
6. Clarity and organization
7. Persuasiveness
8. Correctness of format and citations
9. Thoroughness
10. Grammar, style.

Judges should be familiar with the Problem before reading the memorials. The judges' Bench Memo outlines most of the issues in the case and should be read carefully. However, the Bench Memo does not represent an airtight resolution of the case and a sound presentation of creative ideas should be viewed favorably.

The substantive merits of the case shall not be considered in judging the memorials.

Scores shall be tendered to the Regional Administrator prior to the first oral argument of the Regional.

Memorials are to be judged on the type of criteria enumerated above, and not upon their appearance. Memorials are not to be penalized for being of less pleasing physical appearance unless this results from the infraction of a specific rule of the contest (i.e., form), or from a general carelessness of preparation.