

# CLL

# Content and Language Integrated Learning

### 3 International Disputes between States



## 3

# International Disputes between States

**In this module you will learn about:**

- the main methods for settling disputes between states
- how the International Court of Justice works
- a case recently submitted to the ICJ
- terms, verbs and expressions related to the topic and to law in general

## Warm-up

**Pair work.** Give at least two examples for each of the following elements. The first has been done as an example.

**When you have finished compare your answers with those of your classmates:**

1. Common reasons for international disputes: *an act of aggression*, .....
2. Methods for settling disputes between states: .....
3. International judicial bodies in charge of resolving interstate disputes: .....

## Hands on Activity

**Group Work.** Disputes between states are not much different from those between individuals or groups of individuals. Think of an argument which occurred with your classmates or with your family and write down a list of actions that you would take to reach a peaceful settlement (for example, appoint one or more judges).

1. ....
2. ....
3. ....
4. ....
5. ....

## Reading

**Peaceful settlement of international disputes**

Despite the existence of a **pattern** of generally recognized standards of conduct, states, like individuals, often find that their interests **clash** with those of the other members of the international community. In the absence of a superior authority with the power to **settle** such conflicts and enforce the settlements, states have often been tempted and have in fact resorted to violence. The development of techniques for the peaceful settlement or adjustment of disputes between states has long been regarded as an essential condition in maintaining international peace and security.

Article 33(1) of the UN **Charter** gives a list of the usual methods of the peaceful settlement of disputes between states in international law:

negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their choice. These methods can be categorized into: diplomatic means of dispute settlement, legal (or judicial) means of dispute settlement, and dispute settlement procedures among the member states of international organizations.

Diplomatic means are negotiation, **good offices**, mediation, inquiry and conciliation.

Should the diplomatic, **non binding** methods fail to work, the dispute can be settled by legal means, namely arbitration and judicial settlement or verdict.

The **involvement** of regional and global international organizations has **increased** dramatically since the end of World War II. Many of their charters (or constitutions) contain specific peaceful-settlement mechanisms applicable to disputes between member states. The UN may be utilized on several levels. The Secretary General, for example, may use his good offices (good offices in this instance means his power or influence) to suggest the terms or modalities of a settlement. The General Assembly may recommend particular solutions or methods to resolve disputes. Similarly, the Security Council may recommend solutions or, if there is a **threat** to or a **breach** of international peace and security or an act of aggression, it could **issue** binding de-

cisions to impose economic sanctions or to authorize the use of military force. Regional organizations, such as the Organization of American States and the African Union, also have played active roles in resolving interstate disputes.

Disputes which have to be settled by legal means are placed before an existing independent court.

The most important and comprehensive of these courts is the International Court of Justice (ICJ). Other similar bodies are available to deal with interstate disputes. These include the European Court of Human Rights, established by the European Convention on Human Rights; the Inter-American Court of Human Rights, created by the Inter-American Convention on Human Rights; and the International Tribunal for the Law of the Sea, set up under the Law of the Sea Treaty. The World **Trade** Organization (WTO), established in 1995 to supervise and liberalize world trade, also has created dispute-settlement mechanisms.

**GLOSSARY**

**pattern:** the regular and repeated way in which something happens or is done

**clash:** to come into conflict

**settle:** to resolve conclusively

**charter:** a document issued by a government that gives rights to a person or group

**good offices:** a means of peacefully resolving disputes between states or services rendered by a mediator in a dispute or third party influence that facilitates one party's dealing with another

**non binding:** that does not obligate

**judicial settlement:** a legal means of settlement performed by a permanent court

**involvement:** the fact or condition of participating in something

**increase:** to become or make greater in size, amount, or degree

**threat:** a statement of an intention to inflict pain, injury, damage, or other hostile action

**breach:** an act of breaking or failing to observe a law, agreement, or code of conduct

**issue:** an important topic or problem for debate or discussion

**trade:** the act or process of buying, selling, or exchanging commodities, at either wholesale or retail, within a country or between countries

① Complete the following sentences. Your answers must be related to the concepts contained in the text.

1. The peaceful settlement of interstate disputes is vital for .....
2. The means for settling disputes include: .....
3. Since ..... there has been an increment in the involvement of regional and international organizations
4. In dispute-settlement the UN can take different kinds of actions such as .....
5. The main international judicial bodies that may settle international disputes are: .....

② Find in the text verbs that are associated with the following terms. When you have finished translate the expressions you have found with the help of your dictionary.

1. .... violence
2. .... peace
3. .... a solution
4. .... a dispute
5. .... a sanction
6. .... a role

③ Research paper. In groups carry out a research on The World Trade Organization.

Focus on the following elements:

1. Date of foundation: .....
2. Location: .....
3. Number of State members: .....
4. Main goals: .....

## Reading

### Ken Keith discusses the internal process of the International Court of Justice as a Judge of the Court

The International Court of Justice was established by the founders of the United Nations in 1945. It reflects the fundamental concept of the United Nations, that the judicial process must have a central role in the peaceful settlement of international disputes.

I would like to deal here with the issue of internal processes. It must be understood that the court works in a careful, professional, independent manner in deciding the matters the various states bring to it. All matters are studied and presented in a series of transparent processes to maintain the **trust** of the participating states. In fact the public process involves very extensive series of written and oral proceedings, which are available on the ICJ website. →

The internal processes of the ICJ provide a sharp contrast to my earlier experiences. There is a court of 15 judges (sometimes more) who preside over the court. They listen to an oral hearing on the **matter** before them. After the oral hearing, the fifteen members write notes addressing what they see as the main questions to be resolved and their answers, are more or less tentative in that they reflect an overall personal opinion on the problem at hand. Those notes can consist of from 5 to 100 pages. These are translated into the other working languages and distributed. It should be noted that the court works in French and English. We then have the first of three deliberations, each of which may **last** for several days. The first deliberation begins with the most junior judge and proceeds up the table to the president. In the course of the process of deliberation, there is much questioning and commenting on the problem at hand.

The president of the court is elected every three years as the membership changes following the regular election of five of the fifteen judges. He (the president) sums up where the main lines of agreement appear to be and the court elects two members to form a **drafting** committee. The drafting committee can include the president if he is part of the majority opinion. They produce a preliminary draft in both languages. We then have a short period to read the preliminary findings and propose written **amendments** to it. Then we have the first reading of the amended draft. Each Substantive paragraph is read out loud in French and English. It is debated, often amendments are suggested and accepted or not.

At the **end** of that process, those members of the court who plan to dissent write separate opinions to indicate their intentions. They distribute their drafts, ideally in time for the drafting committee to take them into account in preparing the reading of the second text. All members engage in a deliberation on that text, particularly on the passages that have been amended. That process ends when we vote, again from the most junior member up, on the final text which is referred to as the **dispositif**. All justices must vote and their vote becomes public when the court's judgment is delivered. This delivery is published after the final adjustments are made to the **dispositif**. The **dispositif** also includes the separate and dissenting opinions and declarations of the court.



#### GLOSSARY

**trust:** firm belief in the reliability or truth of something

**matter:** a situation or subject that is being dealt with or considered

**last:** to continue to exist

**draft:** a piece of text, a formal suggestion, or a drawing in its original state, often containing the main ideas and intentions

**amend:** to change the words of a text, especially a law or a legal document

**end:** to finish or stop

**dispositif** (in International Law): a document that communicates the general position taken by some organization, court or nation on a particular issue

**1 Read the text and write down a list of the actions taken during the internal processes if ICJ The first has been done as an example.**

1. Oral hearing
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....
8. ....
9. ....
10. ....

2 Read the text again and answer the following questions.

1. Where can the written and oral proceedings of the Court be found? .....
2. How many judges are on the Court? .....
3. When is the president elected? .....
4. Who votes first? .....

3 Replace each of the verbs in bold with the correct synonym among those given. Remember to use the correct form of the verb.

*begin imply disagree recapitulate write*

1. The public process **involves**/..... very extensive written and oral proceedings
2. The first deliberation **starts**/..... with the most junior judge and proceeds up to the president
3. At the end of it, the president **sums up**/..... where the main lines of agreement appear to be
4. They **produce** /..... a preliminary draft in both languages
5. Those members of the court who plan to **dissent**/..... or wrote separate opinions indicate it

### Interesting fact

After a promising start, the International Court of Justice became increasingly inactive, and by 1970 its docket was completely empty.

Forty years later the international judicial landscape has been transformed. International courts and tribunals abound and States are increasingly willing to enter international litigation.

The states in dispute come from all continents--among the recent cases are Argentina vs Uruguay, Malaysia vs Singapore, Guinea vs Democratic Republic of Congo, Djibouti vs France, Romania vs Ukraine, Germany vs Italy and Mexico vs United States.

### Listening



1 Listen to the passage and complete the following document issued by the International Court of Justice.

**International Court of Justice**

Year 2014 - 16 June 2014

**OBLIGATIONS CONCERNING NEGOTIATIONS RELATING TO**

1) .....

**AND TO** 2) .....**ORDER**

Present: President Tomka; Vice-President Sepúlveda-Amor; Judges Owada, Abraham, Keith; Benouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue, Donogue, Gaja, Sebutinde, Rhandari; Registrar Couvreur

The International Court of Justice,  
Composed as above,  
After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 44, 45, paragraph 1, 48 and 49 of the Rules of Court.

Having regard to the Application filed in the Registry of Court on 24 April 2014 whereby the Republic of the Marshall Islands instituted 3. .... against the United Kingdom of Great Britain and Northern Ireland with regard to alleged 4. .... regarding to the cessation of the nuclear arms at an early date and to to nuclear disarmament.

Whereas an original of the Application was communicated to the United Kingdom on the day it was filed;

Whereas at a meeting held by the President of the Court with the 5. .... on 11 June 2014, pursuant to Article 31 of the Rules of Court, those representatives expressed the views of their respective Governments regarding the 6. .... required in order to prepare the first round of written pleadings and agreed that a period of 7. .... would be appropriate for the preparation of the 8. .... and for that of the Counter-Memorial;

Taking into account the agreement of the Parties,  
Fixes the following time-limits for the filing of the written pleadings:

9. .... for the Memorial of the Republic of the Marshall Islands;  
 10. .... for the Counter-Memorial of the United Kingdom of Great Britain and Northern  
 Island; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, the sixteenth day of June, two thousand and fourteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of the Marshall Islands and the Government of the United Kingdom of Great Britain and Northern Ireland, respectively.

*(Signed)* Peter TOMKA,  
 President

*(Signed)* Philippe COUVREUR,  
 Registrar

**2 When you have finished read the entire document and answer the following questions.**

1. Who made up the Court? .....  
 .....  
 .....
2. When was the original of the Application communicated to the United Kingdom? .....  
 .....  
 .....
3. In which languages is this text done and which is authoritative? .....  
 .....
4. How many copies were made? .....  
 .....

### Interesting fact

One of the reasons the Court decided to use English as one of its primary languages is because it is a language which lends itself to being simple and to the point. A clear expression of words and legal explanations was considered important to the understanding and transparency the Court wanted to transmit to all peoples and states. It was hoped that by using English there would be less misunderstanding in the findings and workings of the Court.

**3** Research paper. In groups visit the website of the International Court of Justice (<http://www.icj-cij.org/>) and find out the following information relative to the years 2013/14.

1. The reasons for the contentious cases referred to the Court, for example obligation to Negotiate Access to the Pacific Ocean.

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2. The countries involved in the cases.

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## Revision time!

**Group Work.** You have to make a short presentation for a group of junior school students aged 9-10. Your presentation must cover the following topics.

1. What are disputes between states .....

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2. How can they be settled .....

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3. What are the main organizations and judicial bodies that can settle them .....

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Remember that – as you are addressing a group of children – your presentation should be as interesting and engaging as possible.

### Online Resources

The website of the United Nation: <http://www.un.org/en/>

The website of the World Trade Organization: <http://www.wto.org/>

The website of the International Court of Justice: <http://www.icj-cij.org/>