



# INTERNATIONAL COURT OF JUSTICE

WHALINH IN THE ANTARCTIC  
(AUSTRALIA VS JAPAN)

TANIA ALINA DE LA LUZ SESMAS  
YANET DE JESÚS HERNÁNDEZ  
DANIELA CARRO LACHINO



## **Estimados Delegados:**

Sean bienvenidos al 2º Modelo Internacional de la Escuela Nacional Preparatoria MUNENP 2011. Antes que nada, reciban un cordial saludo de todos los que trabajamos por hacer de este, su evento, una experiencia maravillosa, en la que al término de esta edición, ustedes puedan ser mejores alumnos, mejores delegados, y sobre todo mejores personas.

La Universidad Nacional Autónoma de México, en su área de bachillerato, en la Escuela Nacional Preparatoria Plantel 8 “Miguel E. Schulz”, que este año celebra su 45 aniversario, nos abren las puertas para realizar un evento que nos brinda a todos la oportunidad de continuar trabajando en pos de la humanidad.

Hemos trabajado intensamente, para poder brindarles a ustedes, nuestro mejor trabajo; hemos procurado tener un acercamiento mas cálido con cada uno de los que nos honran con su presencia, muy a pesar de que el primer contacto, no se realizó en persona, si hemos intentado dar una atención personalizada a sus dudas, comentarios, quejas y sugerencias, y por supuesto, que durante el evento, y después del evento, queremos seguir con los mismo ideales, que hombres como José Vasconcelos, Justo Sierra y Gabino Barreda, principalmente, han inculcado a esta Máxima Casa de Estudios y que nos han dejado plasmados en los lemas que llevamos por siempre: “POR MI RAZA HABLARÁ EL ESPIRITÚ” y, “AMOR, ORDEN Y PROGRESO”.

Decía José Vasconcelos, ante el cambio de escudo de la Universidad Nacional y ante los cambios que estaban por venir en la nación mexicana a principios del siglo XX, “que la convicción de que la raza nuestra elaborará una cultura de tendencias nuevas, de esencia espiritual y libérrima”, así pues, en la UNAM y todo lo que de ella emana, la raza humana, sin importar los colores, las lenguas, los vestidos, las creencias, ha de generar tendencias nuevas, con un amplio sentido humano; ejercicio que invitamos a todos los presentes, a que realicemos día con día para hacer de este lugar, un mejor lugar para las generaciones futuras. Esa es la meta de los tres días de debate, que se generé en todos los presentes, ideas innovadoras, que refresquen y recuerden a este mundo, lo grandioso que es.

No tenemos más que pedirles que aprovechen y disfruten al máximo su estadía en MUNENP 2011, que de ella renazcan los ideales del semillero de la nación mexicana, AMOR, pues es la pasión, la entrega en todo lo que hacemos; ORDEN, como en cualquier disciplina, actitud y actividad que requiera respeto; PROGRESO, para lograr de este mundo, un lugar mejor

ATENTAMENTE

MUNEP 2011

## **MENSAJE DEL SECRETARIO GENERAL**

La Escuela Nacional Preparatoria Plantel numero 8 Miguel E. Schulz en el marco del 45 aniversario de su fundación convoca al 2º Modelo de la Escuela Nacional Preparatoria, MUNENP 2011, a celebrarse del 10 al 12 de Marzo del 2011, en el plantel Miguel E. Schulz como sede.

MUNENP 2011, es un evento académico que congrega a estudiantes de los nueve planteles de la Escuela Nacional Preparatoria y otras instituciones públicas y privadas del país y del extranjero a simular los debates de los diferentes órganos y organismos que conforman el Sistema de Organización de las Naciones Unidas, y al mismo tiempo constituye un espacio de intercambio científico y cultural entre sus participantes.

Durante los tres días de intenso debate, los estudiantes tendrán la oportunidad de utilizar sus capacidades de argumentación y diplomacia para formular resoluciones concretas a los problemas de la agenda internacional. Este evento no solo crea una conciencia en los jóvenes sobre los conflictos que suceden alrededor del mundo, sino que también favorece que nosotros como jóvenes intercambiamos información y nos permita entender que el diálogo es la única solución en cualquier situación.

Siendo la Escuela Nacional Preparatoria el semillero fecundo de la Máxima Casa de Estudios, nuestra labor de formar a los líderes del futuro, no solo incluye formar ciudadanos mexicanos ejemplares: de la misma manera necesitamos formar ciudadanos del mundo, que puedan llegar a poner fin a todos los problemas y conflictos que aquejan a la población mundial.

El comité organizador de MUNENP 2011, con el apoyo de académicos y funcionarios de la universidad, ha realizado un enorme esfuerzo para que este evento se lleve a cabo, pero la participación esencial será de cada uno de ustedes delegados, con ustedes siendo la columna de este modelo lograremos hacer de esta una experiencia inolvidable.

“POR MI RAZA HABLARA EL ESPÍRITU”

Jair Lara Mundo

Secretario General, MUNENP 2011

**TITULAR PROYECTO INFOCAB**

“Modelo de Naciones Unidas de la Escuela Nacional Preparatoria MUNENP”  
MTRO. ALBERTO MARTÍNEZ ALCARAZ.

**Coordinadora General**

Mtra. Arcelia Moreno Agraz

**Coordinadora de Logística**

Profa. Q.F.B. Adriana Ma. Treviño Valdés

**Coordinadora de Programa Internacional de Intercambio Académico Cultural (PIIAC)**

Profa. Rosa Pacheco García

**Coordinador Académico**

Prof. MBA. Luis Para Pantoja

Profa. Rosario Benitez García

**Coordinadores Adjuntos**

Profa. Esther de la Paz Pérez Farca.

Profa. Araceli Mejía Barrón

**Coordinador atención al Delegado y Delegaciones Internacionales**

Abraham Alejandro Gutiérrez Vázquez

**Secretario General**

Jair Lara Mundo

**Subsecretario**

Francisco Meza Durán

**Comité de Crisis**

Elba Gutiérrez Castillo

Margarita Carolina Mendez Ruiz

Francisco Meza Duran

# COMITES MUNENP 2011

## COMITÉS EN ESPAÑOL

### **ASAMBLEA GENERAL TERCERA COMISIÓN**

TÓPICO A: PROTECCIÓN DEL CLIMA MUNDIAL PARA LAS GENERACIONES PRESENTES Y FUTURAS

TÓPICO B: CONVENIO SOBRE LA DIVERSIDAD BIOLÓGICA

ALFREDO MALDONADO GARCÍA – PRESIDENTE

MELISSA ORTIZ MORALES – MODERADORA

SACNICTÉ ORTEGA LEAL-OFICIAL DE CONFERENCIAS

### **ORGANIZACIÓN MUNDIAL DE LA SALUD**

TÓPICO A: EFECTOS DE LAS RADIACIONES ATÓMICAS

TÓPICO B: REGRESIÓN DEL SIDA, MALARIA Y TUBERCULOSIS EN LOS PAÍSES EN DESARROLLO EN PARTICULAR ÁFRICA. (2001-2010)

RICARDO TRUJANO AMEZCUA– PRESIDENTE

VICTOR MANUEL MIRANDA LEYVA-MODERADOR

ISABEL – OFICIAL DE CONFERENCIA

### **CONSEJO DE SEGURIDAD**

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PATRICIA ANGELICA QUILES MARTINEZ– PRESIDENTE

SAMANTHA MONROY MONDRAGON- MODERADORA

FEDERICO SALDAÑA MERCADO– MODERADOR

### **DERECHOS HUMANOS**

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PROMOCIÓN Y PROTECCIÓN DE LOS DERECHOS DEL NIÑO

PROMOCIÓN Y PROTECCIÓN DE LOS DERECHOS HUMANOS  
FORTALECIMIENTO DEL SISTEMA EDUCATIVO EN HAITI  
ASISTENCIA HUMANITARIA

ROBERTO BRAVO-PRESIDENTE  
TANIA MOYA MARTINEZ – MODERADOR  
ANDREA RODRIGUEZ COBOS- OFICIAL DE CONFERENCIAS

**COMISIÓN DE LA CONDICIÓN SOCIAL Y JURÍDICA DE LA MUJER**

TÓPICO A: ERRADICACIÓN DE LA VIOLENCIA CONTRA LA MUJER  
TÓPICO B: TRATA DE PERSONAS

ANA LAURA GARCÍA TORRES – PRESIDENTE  
SANDRA GOMEZ HERNANDEZ – MODERADORA  
JUAN CARLOS JORGE SOTO – OFICIAL DE CONFERENCIA

**COMITÉS EN INGLÉS**

**INTERNATIONAL COURT OF JUSTICE**

CASE: Whaling in the Antarctic (Australia vs. Japan)

Presidente: TANIA ALINA DE LA LUZ SESMAS

Moderadora: YANET DE JESÚS HERNÁNDEZ

Oficial: DANIELA CARRO LACHINO



# INTERNATIONAL COURT OF JUSTICE

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Website: [www.icj-cij.org](http://www.icj-cij.org)

International Court of Justice

Office of the Registrar

The Hague, July 2010

**TO: Judges of the International Court of Justice**

**RE: Australia has instituted proceedings against Japan for alleged breach of international obligations concerning whaling**

**Your Excellencies:**

The office of the Registrar informs you of the following important developments:

## **Whaling in the Antarctic**

***(Australia v. Japan)***

On 30 May 2010, the Government of Australia instituted proceedings against Japan before this International Court of Justice, arguing that Japan has breached its international obligations under the International Convention for the Regulation of Whaling and other international obligations for the preservation of marine mammals and the marine environment through the continued pursuit of a large scale program of whaling under the Second Phase of Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II).

In its application, Australia alleges that Japan has breached this obligations under the ICRW:

- a. The obligation under paragraph 10 (e) of the Schedule to the ICRW to observe in good faith the zero catch limit in relations to the killing of whales for commercial purposes; and
- b. The obligation under paragraph 7(b) of the Schedule to the ICRW to act in good faith to refrain from undertaking commercial whaling of humpback and fin whales in the Southern Ocean Sanctuary.

Further, it is the contention of Australia that Japan is in breach of the following international obligations:

- c. Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITIES"), the Fundamental Principles contained in Article II in relation to "introduction from the sea" and other exceptional circumstances, and the conditions in Article III(5) in relation to the proposed taking of humpback whales under JARPA II;
- d. Under the Convention on Biological Diversity, Australia alleges that Japan has fail to comply with their obligation to ensure activities within their jurisdiction or control not to damage the environment of other States or of areas beyond the limits of national jurisdiction in Article 3, the obligation to cooperate with other Contracting Parties under article 5 and to adopt measures to avoid or minimize adverse impacts in biological diversity under article 10(b).

For the breach of the international obligations mention above Australia asks this Court to:

- a. Cease implementation of JARPA II,
- b. Revoke any authorizations, permits or licenses allowing activities which be found in breach of international law by this Court,
- c. Provide the assurances and guarantees that will not take any further action under the JARPA II or any similar program until such program has been brought into conformity with the obligations under international law.

We expect agents from both Parties to submit written pleadings as briefly as possible. As soon as documents or any additional information are received, your Excellencies will be notified. Agencies are already working hard for their day in court.

Additional information shall be communicated as soon as possible.

Furthermore, we expect your Excellencies to study the Article 38 of the Statute of the International Court of Justice, the International Convention for the Regulation of Whaling. You can find the full text in

<http://iwcoffice.org/documents/commission/convention.pdf>

The hearings for oral pleadings regarding this case have been set for March 10-12, 2011, in special session of the Court, to be held during MUNENP 2011, Escuela Nacional Preparatoria Plantel 8 "Miguel E. Schulz", Mexico City, Mexico.

We ask your Excellencies to be prompt in confirming your presence and reading through the enclosed material.



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Enclosed you will find the compromise, a list of basic documents and briefings on functions of the court (in case you need a refresher on your work!) and the Rules of Procedure for this session, as well as a brief listing of essential information for your preparation. The Court expects your Excellencies to, at the very least, read this handbook and the Statute of the ICJ, with an emphasis on article 38, which will be essential to your work.

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**DANIELA CARRO**  
**REGISTRAR**  
**INTERNATIONAL COURT OF JUSTICE**

### **AN INTRODUCTION TO THE INTERNATIONAL COURT OF JUSTICE\***

The International Court of Justice, institution with official Seat at The Hague, in the Netherlands, acts as a world court, taking decisions in accordance with international law over disputes of a legal nature submitted to it by States, whilst in addition the Court may answer legal questions addressed to it in advisory proceedings.

The ICJ was set up in 1945 under the Charter of the United Nations to be the principal judicial organ of the Organization, and its basic instrument, the Statute of the Court, forms an integral part of the Charter. It is an effective successor of the Permanent Court of International Justice, the corresponding organ of the Society of Nations (1922-1946).

Article 33 of the United Nations Charter lists the following methods for the pacific settlement of disputes between States: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, and resort to regional agencies or arrangements, to which good offices should also be added. Among these methods, certain involve appealing to third parties. One of such methods is the submission of the dispute to a judicial organ to seek settlement, which is what the ICJ is all about.

#### ***Statute and Rules of the Court***

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\* This text is adapted from and includes information available publicly in [www.icj-cij.org](http://www.icj-cij.org)

From 1946 to 31 July 2004, the Court dealt with 106 contentious cases between States and delivered 80 judgments. It also gave 25 advisory opinions. After an initial period of uncertainty that led to a resolution by the General Assembly in 1947 concerning the need to make greater use of the Court, the Court's work at first assumed a tempo comparable to that of the Permanent Court of International Justice. Then, starting in 1962, all the signs were that the States which had created the ICJ were now reluctant to submit their disputes to it. The number of cases submitted each year, which had averaged two or three during the fifties, fell to none or one in the sixties; from July 1962 to January 1967 no new case was brought, and the situation was the same from February 1967 until August 1971.

In the summer of 1970, at a time when the level of the Court's activity was in marked decline, the Secretary-General, in the introduction to his annual report, felt obliged to recall the importance of judicial settlement and 12 States suggested "that a study should be undertaken . . . of the obstacles to the satisfactory functioning of the International Court of Justice, and ways and means of removing them" including "additional possibilities for use of the Court that have not yet been adequately explored".

The General Assembly placed on its agenda an examination of the Court's role and, after several rounds of discussion and written observations, on 12 November 1974 adopted a fresh resolution concerning the ICJ. From 1972 the number of new cases brought to the Court increased, and between 1972 and 1985 cases averaged from one to three each year. Since 1986, the Court has experienced a significant increase in the number of cases referred to it. Over a period of some ten years, it has been asked to deal with 19 contentious cases and four requests for advisory opinions. At the end of July 2009, 14 contentious cases and one advisory opinion were pending before the Court. In its resolution 44/23 of 17 November 1989, the General Assembly declared the period 1990-1999 as the United Nations Decade of International Law. The purpose was to encourage the peaceful settlement and therefore promoting the importance of the International Court of Justice.

Whether the Court is deciding a case of a contentious nature, i.e., one concerning a dispute between States, or is engaged in advisory proceedings, i.e, giving an opinion in response to a request from an international organization, it applies the same sources of international law, and its decision are invested with the same high authority since in both instances, it is "laying down" the international law. The Court in the voice of their judges will decide only under international law bases, since no justice is bound by their nationality.

The Court functions whilst solving international controversies within states, decides in conformity with international law. In this sort of proceedings any disagreement on a question of law or fact, controversies or clashes of legal views or interests are adjusted on legal international bases.

Under this approach of the Court only States may be parties to cases, whilst the Court has the function of deciding in accordance with international law disputes of a legal nature that are submitted to it by States. In doing so it is helping to achieve one of the primary aims of the United Nations, which, according to the Charter, is to bring about the settlement of disputes by peaceful means and in consonance with the principles of justice and international law.

An international legal dispute is, as the Permanent Court of International Justice put it, "A disagreement on a question of law or fact, a conflict, a clash of legal views or of interests." Such a dispute between opposing parties may eventually lead to contentious proceedings before an international tribunal. It is conceivable that such proceedings could be between a State on the one hand and an international organization, a collectivity or an individual on the other.

Within their respective fields of jurisdiction, institutions such as the Court of Justice of the European Communities in Luxembourg or the European Court of Human Rights in Strasbourg would be entitled to hear such disputes. This is not the case, however, with the ICJ, to which no case can be submitted unless both applicant and respondent are States.

Despite various proposals and even the existence of a treaty providing for the possibility of proceedings before the Court between an international agency and a State, neither the United Nations nor any of its specialized agencies can be a party in contentious proceedings before the ICJ. As for private interests, these can only form the subject of proceedings in the International Court of Justice if a State, relying on international law, takes up the case of one of its nationals and invokes against another State the wrongs which its national claims to have suffered at the latter's hands, the dispute thus becoming one between States (e.g., *Ambatielos*, *Anglo-Iranian Oil Co.*, *Nottebohm*, *Interhandel*, *Barcelona Traction, Light and Power Company, Limited*, *Elettronica Sicula S.p.A. (ELSI)*). Like any other court, the ICJ can only operate within the constitutional limits that have been laid down for it.

Today, the Court is open to practically every State in the world: States Members of the United Nations, which, by signing the Charter, accepted its obligations and thus at the same time became parties to the Statute of the ICJ, which forms an integral part of the Charter; those States (Nauru and Switzerland) which have become parties to the Statute of the ICJ without signing the Charter or becoming members of the United Nations; these States have had to satisfy certain conditions laid down by the General Assembly upon the recommendation of the Security Council: acceptance of the provisions of the Statute, an undertaking to comply with the decisions of the ICJ and an undertaking to make an annual contribution to the expenses of the Court; any other State which, whilst neither a member of the United Nations nor a party to the Statute of the ICJ, has deposited with the Registry of the ICJ a declaration that meets the requirements laid down by the Security Council whereby it accepts the jurisdiction of the Court and undertakes to comply in good faith with the Court's decisions in respect of all or a particular class or classes of disputes. Where they have been parties to a case, they have been required to contribute to the costs thereof.

The jurisdiction of the Court so far as concerns the parties entitled to appear before it — jurisdiction *ratione personae* — covers those States listed above. In other words, in order that a dispute may validly be submitted to the Court it is necessary that the dispute should be between two or more such States. The court with independence of the wishes of the parties in dispute, can decide over its jurisdiction (Corfu Channel Case).

The fact that only states can take part in contentious proceedings, may not give the idea that exclusively states can participate in the court's proceedings. Public International Organizations may address proceedings at the World's Court whenever a question arises concerning the interpretation or implementation of the constitutions or of conventions adopted in pursuance thereof (Appeal Relating to the Jurisdiction of the ICAO Council, Aerial Incident of 3 July 1988, Questions of Interpretations and Application of the 971 Montreal Convention arising from the Aerial Incident at Lockerbie).

Advisory Proceedings are just available to public international organizations. In accordance to the Article 96 of the Charter of the United Nations, the General Assembly and Security Council have the inherent right to address advisory opinions to the ICJ.

Further more, sixteen specialized agencies, or entities assimilated thereto, are authorized by the General Assembly, in pursuance of agreements governing their relationships with the United Nations, to ask the ICJ for advisory opinions “on legal questions arising within the scope of their activities”. This is innovative in comparison to the Permanent Court of International Justice. Anyhow, up to now only three agencies have applied advisory proceedings (Unesco, IMO and WHO).

Besides, two or more organs or agencies *inter se* (e.g. the United Nations Economic and Social Council may participate in advisory proceedings by addressing “legal questions concerning mutual relations of the United Nations and specialized agencies”). This has been a theoretical possibility since the entities entitled to seek advisory opinions have in general the same member states.

## **RELEVANT INFORMATION**

You'll find underneath a collection of useful links to aid you in your in your preparation.

The information offered is to be read at face value. With the obvious exception of the ICJ website, they do not represent an official position of the ICJ, the chair, or otherwise. The positions expressed in these documents in no way represent the 'official' truth concerning the case, as the hearings are yet to be held, and the court shall depend upon the work of the

agents. Use these links to find sources for your investigation of the general information of the case, documents you might be needing during debate, etc, so you get to know the facts of the case, and be able to understand the arguments of the Agencies.

<http://www.icj-cij.org> (International Court of Justice- Official Website. You MUST read the full Statute of the Court, available under “Basic Documents”, and be familiar with Article 38)

<http://treaties.un.org/Home.aspx> (UN treaty Series)

<http://www.asil.org/insights.cfm> (the American Society of International Law's online newsletter, with articles and useful information on varied aspects of International Law).

**INTERNATIONAL COURT OF JUSTICE**

# **MEMORIAL**

**FILED PURSUANT TO THE  
APPLICATION INSTITUTING PROCEEDINGS**

filed in the Registry of the Court on 13 July 2010

**CASE CONCERNING WHALING IN THE ANTARCTIC**

(AUSTRALIA v. JAPAN)

2010  
General List  
No. 148

## Statement of Facts

- 1.- Here, you must briefly recount the story as you consider it happened.
- 2.- Keep the numbers as are presented here
- 3.- Be brief, but address every relevant fact!
- 4.- Expose events chronologically

## Summary

This is an informal summary of your main contention. This must be brief, and remember to do it at last, once the entire document has been finished. Remember to address your pleadings (what you are asking to the court, your letter to Santa)





## issues and Pleadings

### THE REPUBLIC OF XXX HAS BREACHED INTERNATIONAL OBLIGATIONS VIS A VIS YYY

#### A) a SUBPOINT RELATED TO THE MAIN PLEADING

Point out whatever relevant matter, addressing afterwards which is the applicable law. Then analyze why the facts are or are not in accordance with the law. Finally conclude if there has been a violation or not of international law.

As with everything else in this format, please keep to the font and graphic specifications: they are the normally-used formatting rules of this kind of documents.

#### B) some other subpoint

- A) Maybe you want to use other kinds of subindexes. Do it like this..
- B) This way, you can list arguments in the proper way, without much trouble.
- C) You could, for example, list facts here that caused the breach of the obligation you are trying to uphold.

#### C) conclusions

All of this obligations invoked take you to this: the conclusion of the pleading. So, Mr. President, we won, thanks.



**THE REPUBLIC OF yyy IS UNDER AN OBLIGATION TO PAY REPARATIONS**

**A) etc**

**B) Conclusions**

(use the format above, and just change the number and info of the main pleading).



### CONCLUSION AND PRAYER FOR RELIEF

The Republic of Australia, while reserving the right to supplement and amend the submission as appropriate in the course of these proceedings, respectfully requests this Honorable Court to adjudge and declare as follows: (ADAPT AND CORRECT TO THE OFFICIAL PETITIONS, THESE ARE JUST EXAMPLES WITH PLACEHOLDER NAMES)

1. *that* the Republic of Japan has breached its legal obligations toward the people and Republic of Australia under Articles I, II (a), II (b) of the Whatever Convention.
2. *that* quantity and form of reparations, if any, be determined in a separate procedure in a future date.

Respectfully presented to the court on this day,

September 9th, 2010

REPUBLIC OF AUSTRALIA