

**Statute of The International Court of Justice
(September 9, 2024)**



**Global
Governance
Forum**

Article 1

The International Court of Justice established by the Charter of the United Nations ~~as and continued under the Second Charter~~ **is** the principal judicial organ of the United Nations ~~shall be constituted~~ and shall function in accordance with the provisions of ~~the present this Revised Statute~~. **Except as specified in this Revised Statute or the Second Charter, the terms of the existing judges on the Court and the processes, procedures, and legal personality of the Court are not altered by this Revised Statute.**

CHAPTER I

ORGANIZATION OF THE COURT

Article 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen Members, no two of whom may be nationals of the same State.
2. A person who for the purposes of membership in the Court could be regarded as a national of more than one State shall be deemed to be a national of the one in which he **or she** ordinarily exercises civil and political rights.

Article 4

1. The Members of the Court shall be elected by the General Assembly and by the ~~Security Council Parliamentary Assembly~~ from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.
2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.
3. The conditions under which a State which is a party to ~~the present this Revised Statute~~ but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly ~~upon recommendation of the Security Council in consultation with the Parliamentary Assembly~~.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the States which are parties to the **present Revised** Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a Member of the Court.
2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.
2. The Secretary-General shall submit this list to the General Assembly and to the **Security Council Parliamentary Assembly**.

Article 8

The General Assembly and the **Security Council Parliamentary Assembly** shall proceed independently of one another to elect the members of the Court.

Article 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole, **there is equitable gender and geographic representation and that** the representation ~~of the main forms of civilization and~~ of the principal legal systems of the world ~~should be~~ **is** assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the **Security Council Parliamentary Assembly** shall be considered as elected.
- ~~2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.~~
- ~~23.~~ In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the **Security Council, the eldest of these only shall be considered as elected Parliamentary Assembly, the General Assembly and the Parliamentary Assembly shall take subsequent votes to choose between the two candidates.**

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the ~~Security Council Parliamentary Assembly~~, may be formed at any time at the request of either the General Assembly or the ~~Security Council Parliamentary Assembly~~, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the ~~Security Council Parliamentary Assembly~~ for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfills the required conditions, ~~she or~~ he may be included in its list, even though ~~she or~~ he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the ~~Security Council General Assembly~~, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the ~~Security Council Parliamentary Assembly~~.

4. In the event of an equality of votes among the judges, the ~~eldest judge-president of the General Assembly~~ shall have a casting vote.

Article 13

1. ~~The Subject to the provisions of Article 1, the~~ members of the Court shall be elected for nine years and may be re-elected; ~~provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.~~

~~2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.~~

~~23.~~ The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

~~34.~~ In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as ~~that laid down for the first election provided above~~, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the ~~Security Council General Assembly~~.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which **she or** he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, **she or** he has ceased to fulfill the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his **or her** duties, make a solemn declaration in open court that he **or she** will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. **The Court shall ensure that over time there is equitable gender representation in the positions of both President and Vice-President.**
3. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.
2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.
2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.
3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he **or she** should not take part in the decision of a particular case, he **or she** shall so inform the President.
2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he **or she** shall give him notice accordingly.
3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the **present Revised Statute**.
2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.
3. A quorum of nine judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, **~~labour cases and cases relating to transit and communications~~ environmental cases**.
2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.
3. Cases shall be heard and determined by the chambers provided for in this article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.
4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.
5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.
6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfill the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the ~~present~~ **Revised** Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which she or he acts as President.
4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.
5. These salaries, allowances, and compensation shall be fixed by the General Assembly **in consultation with the Parliamentary Assembly**. They may not be decreased during the term of office.
6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.
7. Regulations made by the General Assembly **in consultation with the Parliamentary Assembly** shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.
8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly **in consultation with the Parliamentary Assembly**.

CHAPTER II

COMPETENCE OF THE COURT, JURISDICTION OF THE COURT, AND LEGAL CAPACITY TO BRING ACTIONS BEFORE THE COURT IN CONTENTIOUS CASES

Article 34

- ~~1. Only states may be parties in cases before the Court.~~
- ~~2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.~~
- ~~3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.~~

Article 35

- ~~1. The Court shall be open to the states parties to the present Statute.~~
- ~~2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.~~
- ~~3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court~~

Article 346

1. The Court shall be competent to adjudicate cases involving international law, including determining matters of fact, resolving questions of law, and fashioning binding remedies in any case for which it has original jurisdiction ~~of~~ under Article 35 Paragraphs (1)(2)(3) and (4) of this Revised Statute. The Court shall be competent to adjudicate appeals from international courts and tribunals, including reviewing their decisions of law, and modifying remedies imposed by them, in any case for which the Court ~~comprises all cases which~~ has appellate jurisdiction under Article 35 Paragraph (5) of this Revised Statute.

Article 35

1. The International Court of Justice shall have the power to exercise original compulsory jurisdiction to adjudicate any legal dispute involving international law between or among Members of the United Nations and any additional State Parties to the Revised Statute, however, in accordance with Article 95 of the Second Charter, in the event that the parties ~~refer to it and all matters to~~ a dispute have entered into a bilateral or multilateral agreement entrusting their dispute or the general subject matter under which their dispute falls to another tribunal with the capacity to render a binding decision, the Court shall decline the exercise of jurisdiction in favor of that tribunal.
2. The International Court of Justice shall have the power to exercise original jurisdiction to adjudicate any legal dispute involving matters where the Court's jurisdiction is specially provided for in the ~~Second Charter of the United Nations~~ or in treaties ~~and~~ or conventions in force at the time the dispute arises.
- ~~2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:~~
 - ~~a. the interpretation of a treaty;~~
 - ~~b. any question of international law;~~
 - ~~c. the existence of any fact which, if established, would constitute a breach of an international obligation;~~
 - ~~d. the nature or extent of the reparation to be made for the breach of an international obligation.~~

~~3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.~~

~~4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.~~

~~5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.~~

3. The International Court of Justice shall have the power to exercise original jurisdiction to adjudicate any legal dispute involving international law between or among states where those states voluntarily submit the dispute to the Court for resolution in accordance with, and to the extent provided, by a *compromis* submitted by such parties to the Court.

4. The International Court of Justice shall have the power to exercise original jurisdiction to adjudicate any legal dispute involving international law in which the respondent state party does not contest the jurisdiction of the Court under the doctrine of *forum prorogatum*.

5. Pursuant to Article 95 Paragraph (2) of the Second Charter, upon the application of a state party to a dispute, or in the case of an investment dispute by a non-state party, the International Court of Justice shall have the power to exercise binding jurisdiction to adjudicate appeals, if the governing documents or practices of those courts or tribunals allow for appeal to the International Court of Justice.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 36

1. All members of the United Nations and any additional State Parties to the Revised Statute will have the legal capacity to bring actions against other states recognized as states by the General Assembly before the International Court of Justice to redress or prevent behavior in contravention of international law, so long as they can demonstrate to the Court that such behavior, if proven, is causing, or would cause, harm to them or that such behavior, if proven, is a violation of what the Court determines to be an obligation *erga omnes*.

2. Pursuant to Article 95 Paragraph (2) of the Second Charter, any member of the United Nations, or non-state party to an investment dispute, may appeal an adverse decision of law from an international court or tribunal whose governing documents or practices allow for final appeal to the Court.

3. Pursuant to Article 95 Paragraph (3) of the Second Charter, all members of the United Nations, organs of the United Nations, specialized agencies of the United Nations, and intergovernmental organizations will have the legal capacity to bring legal actions for judicial review of decisions or actions of United Nations bodies referred to in Article 96 Paragraphs 1 and 2 of the Second Charter, so long as they can demonstrate to the Court that such actions, if proven, are impacting, or would

impact, them or that such actions, if proven, are in violation of what the Court determines to be an obligation *erga omnes*.

4. The rules and procedures of this Revised Statute, the Rules of the Court, and the Second Charter shall apply equally to all litigants regardless of whether they are parties to this Revised Statute.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the ~~present~~ **Revised Statute**, be referred to the International Court of Justice.

CHAPTER III – THE LAW APPLICABLE TO THE COURT

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules ~~expressly recognized by applicable to~~ the contesting states;

b. resolutions of international organizations that are binding upon states and resolutions and practices of international organizations that are binding on international organizations;

~~cb.~~ international custom **and recommendations of international organizations**, as evidence of ~~a-~~general practice **and norms** accepted as law;

de. the general principles of law recognized by ~~civilized the community of~~ nations;

~~d. subject to the provisions of Article 59,~~ **e.** judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law;

f. municipal law as may be necessary for, or inextricably bound to, its application of (a) – (e) above or are otherwise necessary for it to perform its functions.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III-IV

PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.
2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.
3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.
2. The Registrar shall forthwith communicate the application to all concerned.
3. He **or she** shall also notify the Members of the United Nations through the Secretary-General, and also any other states **and entities** entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.
2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts: written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

3. Members of the United Nations and parties to the Revised Statute shall cooperate with the Court in delivering effective notice and procuring requested evidence.

Article 45

The hearing shall be under the control of the President or, if **she or** he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.

2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favour of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has **competence under Article 34 and** jurisdiction in accordance with Articles ~~36-35~~ and 37, but also that the **applicant party has capacity under Article 36 and that its** claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the President or the judge who acts in his **or her** place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59

Complementary to the Court's powers to issue decisions binding on parties and intervening states under Articles 34 and 63(2), The decisions of the Court has no binding force except between Court shall be considered authoritative interpretations of international law by the parties and in respect of that particular case-principal judicial organ of the United Nations.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.
2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.
3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.
4. The application for revision must be made at latest within six months of the discovery of the new fact.
5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene **that the Court may deny. At the discretion of the Court, such intervention may consist of the submission of amicus curiae memorials and counter-memorials and other written communications, the participation in oral proceedings, and the becoming of a named party in the proceedings on conditions to be determined by the Court in conformity with its Rules.**
2. ~~Should a public international organization or should a non-governmental organizations, civil society and other stakeholders who has concluded arrangements with the Economic and Social Council under Article 71 of the Second Charter consider that it has an interest of a legal nature which may be affected by a decision in the case, it may submit a request to the Court to be permitted to intervene that the Court may deny. At the discretion of the Court, such intervention may consist of the submission of amicus curiae memorials and counter-memorials and other written communications and the participation in oral proceedings on conditions to be determined by the Court in conformity with its Rules.~~
2. ~~It shall be for the Court to decide upon this request.~~
3. The Court, subject to and in conformity with its Rules, may request of States, public international organizations, and civil society and other stakeholders who have concluded arrangements with the Economic and Social Council under Article 71 of the Second Charter information relevant to cases before it, and shall receive such information presented by such organizations in the form it deems most acceptable.

Article 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.
2. Every state so notified has the right to intervene in the proceedings **subject to the limiting conditions specified in Article 62(1)**; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

Article 65

1. **The Registrar shall publish timely notice of changes to the Court's docket including all case filings and relevant timelines for intervening in cases in a forum intended to be readily available to States, public international organizations, and those organizations referred to in Article 62 Paragraph (2) and (3) who have concluded arrangements with the Economic and Social Council.**
2. **States, public international organizations, and those organizations referred to in Article 62 Paragraph (2) and (3) who have concluded arrangements with the Economic and Social Council having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time-limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.**

CHAPTER IV-V

ADVISORY OPINIONS

Article 66

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the **Second** Charter of the United Nations to make such a request.
2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is **required, and accompanied by solicited together with** all documents likely to throw light upon the question.

Article 66

- ~~1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.~~**
- ~~2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be~~**

~~able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.~~

~~3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.~~

~~4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.~~

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the Court shall ~~further be guided by follow~~ the provisions of the ~~present Revised~~ Statute ~~which that~~ apply in contentious cases to ~~the extent to which unless~~ it ~~recognizes has good reason to consider~~ them ~~not~~ to be applicable.

CHAPTER V-VI

AMENDMENT

Article 69

Amendments to ~~the present this Revised~~ Statute shall be effected by the same procedure as is provided by the ~~Second~~ Charter of the United Nations for amendments to that ~~Second~~ Charter, subject however to any provisions which the General Assembly ~~upon recommendation of the Security Council, in consultation with the Parliamentary Assembly,~~ may adopt concerning the participation of states which are parties to the ~~present Revised~~ Statute but are not Members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the ~~present Revised~~ Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

Comment

Revisions to Specific Text

In addition to below referenced substantive changes to the Statute of the International Court of Justice, throughout the Revised Statute, we provide narrowly tailored revisions to specific text, such as our elimination of the exclusive use of the male pronoun. (In this regard, and with a more direct potential impact on gender representation, we provide for gender equity in the selection of judges and Court officers in Articles 9 and 21(2).)

Reflecting innovations in the Second Charter, we also updated specific references in different articles, such as with our substitution of “the Parliamentary Assembly” for “the Security Council.” Among other narrowly circumscribed revisions, we updated text we considered anachronistic, including provisions that in the event of a tie vote among judicial candidates, the eldest candidate be deemed the winner (Articles 10(3) and 12(4)) and including problematic references such as to the “main forms of civilization” in Article 9 and “civilized counties” in Article 38(d).

Chapter II

Chapter XIV of the Second Charter grants the Court expanded adjudicative powers in four areas, three of which broaden the Court’s authority in contentious cases.¹ In Chapter II of the Revised Statute, these three are given the legal definition necessary to become operationalized.²

The most significant of the three, found in Article 93(1) of the Second Charter, replaces the requirement that states must consent to the Court’s jurisdiction in contentious cases with a provision allowing for the Court to exercise compulsory jurisdiction in such cases. In a historic break from past practice, under this provision an international tribunal would be empowered for the first time to adjudicate all interstate disputes among Members of the United Nations and additional Parties to the Revised Statute. Also novel and important, Article 95(2) of the Second Charter empowers the Court to review decisions of other international tribunals, and Article 95(3) empowers the Court to exercise judicial review over decisions or actions of UN bodies.³

Including three new adjudicative powers in our revision of Chapter II presented significant challenges because the Statute currently lacks a well-developed framework for circumscribing the Court’s ambit of authority into which the new powers could be integrated. As a precondition to proceeding with our redrafting project, we, therefore, included such a framework in the Revised Chapter.

This framework now clearly divides adjudicative powers into three discreet components: the *competence* of the Court to determine matters of fact, resolve questions of law, and

¹ The fourth grant in Chapter XIV of the Second Charter, expands the Court’s authority in non-contentious cases, specifically, to render advisory opinions upon requests from the highest-level courts or tribunals of Members of the United Nations (Article 95(4)).

² In the Revised Statute, the authority for the Court to exercise its new advisory opinion grant is subsumed under Article 66 of Chapter V on *Advisory Opinions* (see, discussion below under the Chapter V heading).

³ For further explanation of, and the rationale behind, these innovations, see *Second Charter Commentary on Revisions to Chapter XIV*.

fashion remedies in different classes of cases under Article 34; the power of the Court to exercise specified categories of *jurisdiction* in Article 35; and the *capacity* (standing) of the litigants to bring matters before the Court in Article 36.

Chapter III

Consistent with our effort to define the contours of the Court’s adjudicative powers in Chapter II in a conceptually clean way, we removed from the Chapter the unrelated Article 38 on sources of law applicable to the Court and placed it in its own new Chapter III (*The Law Applicable to the Court*). The Revised Article 38 maintains the traditional sources found in the current Article with a limited number of notable modifications and additions.

The Revised Article 38 1(a) eliminates the current Article’s ambiguous prescription (not otherwise specified in international law) that the Court’s application of international conventions must be “expressly recognized by the contesting states” in favor of the formulation that they must be “applicable to the contesting states.”

A new Article 38 1(b) is added which includes in applicable sources, “resolutions of international organizations that are binding on states and resolutions and practices of international organizations that are binding on international organizations.” The first clause gives the Court authority to apply a limited new class of binding “exigent situation” resolutions approved by the United Nations General and Parliamentary Assemblies pursuant to the Second Charter’s Article 15. Other situations where international organizations now or in the future promulgate binding resolutions (such as when the European Union or the World Health Organization issue regulations) would also fall under the ambit of Article 38 1(b).

The second clause of Article 38 1(b), which adds as applicable law “resolutions and practices of international organizations that are binding on international organizations” is intended to incorporate additional law necessary for the Court to effectively exercise “binding judicial review over decisions or actions” of United Nations and related bodies pursuant to the Court’s new adjudicative mandate in Article 95(3) of the Second Charter.

Article 38 1(c) has been modified to include “recommendations of international organizations” as evidence of the subjective belief (referred to as *Opinio Juris*) that states are obligated to follow the interstate practices that the recommendations are intended to foster. Under international law, such *Opinio Juris* is required for the interstate practice to be considered binding customary international law. International courts, including the International Court of Justice, have long looked to such recommendations as evidence of *Opinio Juris*, and this modification gives explicit textual recognition to this practice.

Because of the modification of Article 59 in the Revised Statute (see below), the reference to Article 59 would no longer be meaningful and is, therefore, eliminated from Article 38 1(d).

Finally, while the Court’s mandate is to resolve international law cases, because legal disputes require the seamless application of law, Article 38 1(f) makes up for a deficiency in the current Statute by allowing the Court, when necessary, to apply the domestic law of states.

Article 59

While the Statute's current Article 59 states that, "the decision of the Court has no binding force except between the parties and in respect of that particular case," the precedential value of the Court's judgments have been respected throughout the international system. Without taking a technical position on the extent to which the Court's decisions are universally binding, we believe our revised formulation that the Court's decisions "shall be considered an authoritative interpretation of international law by the principal judicial organ of the United Nation" more accurately reflects of the contemporary status of the Court's opinions than does the current provision.

Articles 62 and 65

Article 62 falls under the Chapter on "Procedure" (Chapter III in the current Statute and Chapter IV in the Revised Statute). In the current Statute, the Article is limited to prescribing the intervention of non-party states in the Court's proceedings. To create greater coherence in the Revised Statute, we consolidate under the Article (and the following Articles in Chapter IV) all references to third party participation in proceedings. As such, we moved the provisions prescribing the Court's authority to make informational requests of public international organizations from Article 34 of Chapter II (on Competence of the Court) to Paragraph (3) of the Revised Article 62, and we added the ability for it to make such requests of states and civil society organizations. More substantively, consistent with our efforts to democratize United Nations bodies, under Paragraph (2), we added a provision paralleling Article 94(2) of the Second Charter allowing for civil society and other stakeholders to intervene in proceedings. This is reflective of similar provisions providing for greater civil society access in Articles 2(8), 8(2), 71, 2(9) (Human Rights Council), and 2(1) (Earth System Council) of the Second Charter.

Article 65 (previously 66) providing for notification of pending proceedings to relevant parties has been expanded to ensure that beyond states, all interested actors, including public international organizations and civil society organizations, receive notice adequate to allow them to request to intervene in matters, should they choose to do so. In addition, the Article has been moved from Chapter V (Chapter IV of the current statute) where it was limited to Advisory Opinions into what is now Chapter IV on "Procedure" to reflect also the need to provide such notice in contentious cases.

Chapter V

While Article 66(1) of the Revised Statute remains substantively unchanged, its grant to the Court of authority to "give an advisory opinion . . . at the request of whatever body may be authorized by or in accordance with the Second Charter" allows the Court to answer requests under the Second Charter Article 95(4) for advisory opinions by the highest level national courts.