

## **Pleading before the Court**

You have worked, as a team, many months on your memorials. Now the time has come for you to present your legal argumentation before a Court.

You are pleading in front of a Panel of 3 Judges. They have read your memorials and are very interested in hearing your arguments. It is thus very important to keep an eye contact with the Court. You can see immediately when a judge wants to ask you a question, and also it helps you "facing" the Court during all your pleading.

Our advice is that each agent should know by heart the first 2 minutes of his/her speech to the Court (see below "How to address the Court" and "Example"). It allows the agents to place their voice in the courtroom and to have all the attention of the judges. Also, it gives each pleader the necessary confidence to go on with his/her pleading.

Please find here some advice regarding your pleading based on the experience of moot court coaches and team members.

During each court session where the team of the Applicant meets the team of the Respondent, each team has 40 minutes to plead (Art. X-2(6) Rules of Procedure).

As an example, you are Team 31-A (thus representing the Applicant) meeting Team 40-B (representing the Respondent). The whole Team 31 (composed of 4 students) is present at each court session, even if only 2 of its students plead. The same goes for Team 40, and all the other teams.

As the Team 31-A, you may split your pleading time of 40 minutes between your Agent and your co-agent for the Applicant, and the rebuttal. Team 40-B will be doing the same (Agent/co-agent/surrebuttal).

Team 31-A may thus, for example, split its time in the following way:

Agent A1: 17 minutes

Agent A2: 20 minutes

Rebuttal: 3 minutes

And Team 40-B as follows:

Agent B1: 18 minutes

Agent B2: 19 minutes

Surrebuttal: 3 minutes

NB: Of course, these are examples, the team can split the 40 minutes as follows: 17/17/6 minutes or 18/18/4 minutes, etc. Please keep in mind that you may not use more than 10 minutes for the rebuttal or surrebuttal (Art. X 2(6)). Also, neither the Agent, or his/her co-agent, may speak more than 25 minutes (Art. X 2(7)).

Do pay attention to the Time-Keeper. He/She has noted the way you did split your time. 5 minutes before the end of the announced time, he/she will show you a green card with the number "5" on it; then 2 minutes before the end, a yellow card with the number "2" on it. When your time is up, he/she will hold a red card and will ring a bell at the same time.

### *How to address the Court*

Mister/Madam President, your Honourable Members of the Court.

The judges will interrupt you to ask you questions.

As soon as the judges ask you a question, stop your pleading at once. Do listen carefully to the questions of the judges. Take your time to formulate your answer, and then answer to the Panel. When you are finished answering the question and that the Judge says that you may proceed, then say:

"Thank you, Mr/Madam President" and go on with your argument.

When you have answered a question and you do not see a reaction from the Bench (such as another question, or you see that the judge seems satisfied with the way you answered the question), then say:

"May I proceed, Mr/Madam President?"

If you have made a mistake during your pleading, such as mentioning the name of Loe when you wanted to say Western Kingdom, then simply re-start your pleading saying "Pardon me".

In case you hear the ring, meaning your time is up, do ask the President of the Court if you can be granted some more time to wrap up your argument: "May I have time to wrap up my argument, Mr/Madam President?"

If you were granted more time and, suppose questions from the Bench were added, you can say when you answered that last question: "Since my time is already up, I would now like to summarize the last claim/wrap up my last argument".

The following is an example on how the pleading could be organised (the way the time is split is an example based on the 40 minutes-rule).

Arcadia (Applicant):

First Counsel: (Agent A1)

Introduction

"Mr/Madam President, Honourable Members of the Court, my name is (...), agent for the Applicant, I have the honour to argue on behalf of Arcadia.

May I introduce my co-agent, Mr/Ms (...).

Your Honours, I would like to reserve 17 minutes of our time for my argument, 20 minutes for my co-agent, and a total of 3 minutes for our rebuttal.

Within the scope of Arcadia's first claim, I will show that (...). I will proceed to show that (...) and I will explain (...).

My co-agent will proceed by showing also that (...) and that (...). "

Base yourselves on the claims you defend before the Court. When you announce the order of your claims/submissions, it helps the Court to follow the logic of your pleading. It also helps you to present a clear argumentation before the Panel and to build your argumentation until the end of your pleading.

In this way, when you are asked questions from the Bench, once you are done with the question, you can easily go back to your pleading.

Once you announced the "outline" of your pleading in such a way, you may add:

"If it may please the Court, I would like to start with our first claim."

Argument

Now, you can start with your pleading, starting of course with your first claim... You are now done with your first submission and would like to move on to your second claim/submission. You could do the following:

"Mr/Madam President, if there are no more questions, I will now then move to the second submission. Firstly, I will..., Secondly I will..."

Then move to your second submission.

## Closing your Argument

You are now done with your pleading. Here is a possible way to end it:

"I would like to thank you for your attention and I now turn over to my co-agent. Thank you very much for your kind attention."

Second Counsel: (Agent A-2)

-My name is (...)"

-I would like to continue the argument of Arcadia: First (...) I will then turn to the second and third submission of Arcadia.

When you are done with your pleading, you can conclude with the following: "If there are no further questions, I would like now to close my pleading and thank you for your attention."

The President now calls for the Respondent to present their arguments.

Utopia (Respondent)

First Counsel: (Agent B-1)

Mr./ Madame President, Honourable members of the Court, my name is [...], and I represent Utopia in the case before this Court.

May I introduce my co-agent, Mr./Ms. [...]

Yours Honours, I would like to reserve 19 minutes for my argument, 18 minutes for my co-agent and a total of 3 minutes for our surrebuttal.

Within the scope of Utopia's first claim, I will show that the application by Arcadia must be dismissed (etc.)

I will proceed to show that Utopia. has not violated international law (etc.)

My co-agent will proceed by showing also that the Nationality Decree of 5 August 2004 is in accordance (etc.)

My co-agent will also explain that was SC Resolution 2345 is not in conformity with international law (etc.)

If it may please the Court, I would like to start with our first claim.

Second Council (Agent B2):

Mr./ Madame President, Honourable members of the Court, my name is [...], and I represent Utopia in the case before this Court.

May I introduce my co-agent, Mr./Ms. [...]

Yours Honours, I would like to reserve 19 minutes for my argument, 18 minutes for my co-agent and a total of 3 minutes for our surrebuttal.

Within the scope of Utopia's first claim, I will show that the application by Arcadia must be dismissed (etc.)

I will proceed to show that Utopia. has not violated international law (etc.)

My co-agent will proceed by showing also that the Nationality Decree of 5 August 2004 is in accordance (etc.)

My co-agent will also explain that was SC Resolution 2345 is not in conformity with international law (etc.)

If it may please the Court, I would like to start with our first claim.

Second Council (Agent B2):

"Mr/Madam President, Honourable Members of the Court, my name is (...), agent for the Applicant, I have the honour to argue on behalf of Arcadia.

May I introduce my co-agent, Mr/Ms (...).

Your Honours, I would like to reserve 17 minutes of our time for my argument, 20 minutes for my co-agent, and a total of 3 minutes for our rebuttal.

Within the scope of Arcadia's first claim, I will show that (...). I will proceed to show that (...) and I will explain (...).

My co-agent will proceed by showing also that (...) and that (...). "

Base yourselves on the claims you defend before the Court. When you announce the order of your claims/submissions, it helps the Court to follow the logic of your pleading. It also helps you to present a clear argumentation before the Panel and to build your argumentation until the end of your pleading.

In this way, when you are asked questions from the Bench, once you are done with the question, you can easily go back to your pleading.

Once you announced the "outline" of your pleading in such a way, you may add:

"If it may please the Court, I would like to start with our first claim."

#### Argument

Now, you can start with your pleading, starting of course with your first claim... You are now done with your first submission and would like to move on to your second claim/submission. You could do the following:

"Mr/Madam President, if there are no more questions, I will now then move to the second submission. Firstly, I will..., Secondly I will..."

Then move to your second submission.

#### Closing your Argument

You are now done with your pleading. Here is a possible way to end it:

"I would like to thank you for your attention and I now turn over to my co-agent. Thank you very much for your kind attention."

#### Second Counsel: (Agent A-2)

-My name is (...)"

-I would like to continue the argument of Arcadia: First (...) I will then turn to the second and third submission of Arcadia.

When you are done with your pleading, you can conclude with the following: "If there are no further questions, I would like now to close my pleading and thank you for your attention."

The President now calls for the Respondent to present their arguments.

#### Utopia (Respondent)

First Counsel: (Agent B-1):

Mr./ Madame President, Honourable members of the Court, my name is [...], and I represent Utopia in the case before this Court.

May I introduce my co-agent, Mr./Ms. [...]

Yours Honours, I would like to reserve 19 minutes for my argument, 18 minutes for my co-agent and a total of 3 minutes for our surrebuttal.

Within the scope of Utopia's first claim, I will show that the application by Arcadia must be dismissed (etc.)

I will proceed to show that Utopia. has not violated international law (etc.)

My co-agent will proceed by showing also that the Nationality Decree of 5 August 2004 is in accordance (etc.)

My co-agent will also explain that was SC Resolution 2345 is not in conformity with international law (etc.)

If it may please the Court, I would like to start with our first claim.

Second Council: Agent B2:

Mr. President, honourables members of the Court my name is [...] and I would like to continue the argument for Utopia. I will first show that the Nationality Decree (etc.) I will then turn to my second submission and show that S.C. Resolution 2345 is not in conformity with international law (etc.)

If it may please the Court, I will start with our third claim (etc.)

When you are done with your pleading, you can conclude with the following:

"If there are no further questions, I would like now to close my pleading and thank you for your attention."

The second Agent for Utopia (in our example Team 40-B) has now finished his pleading.

The President of the Court thanks him/her and calls for one Agent of the Applicant to present his/her rebuttal.

*Rebuttal:*

Using our example, Team 31-A comes back before the Court. It is more practical if only one agent (Agent A1 or A2) does this last part of the pleading for the Applicant.

During the rebuttal, keep in mind that only issues raised in the initial arguments may be pinpointed.

It is possible that the Court asks the Agent for the Applicant, questions during the rebuttal.

The Time-Keeper will also inform you of the time you have left using the same card system (5-2-0 minutes left) as during the first part of your pleading.

You can close your rebuttal the same way you closed your pleading.

*Surrebuttal:*

Finally, it is time for Team 40-B to proceed with their surrebuttal.

Please note that the Court expects from the Respondent Agent (either Agent B1 or B2) to rebut solely to the issues/arguments raised during the rebuttal.

The team for the Respondent has thus to listen very carefully to the pleading of the Agent for the Applicant during his/her rebuttal.

For example, if during the rebuttal, only 2 arguments were raised, the Agent for the Respondent is expected to respond only to these very 2 arguments.

Once the Agent is done, he/she asks permission to the Court to close his/her pleading, and thanks the Court for its attention.

It is then that the President of the Court declares the session closed. The Court consequently leaves the Court room to deliberate.

The following are helping tools you can use during your pleading, to help you making your pleading more fluent. This list is of course not exhaustive!

- I would like to emphasise that...
- If I may draw your attention to the fact that...
- My Government submits that....
- As my co-agent already pointed out...
- If you compare with...
- As a consequence...
- Indeed...
- Let me quote the words of...
- It is a rule that...
- With your permission, I doubt that States would accept...

- I would like to explain why...
- With your permission, I quote...
- The principles we invoke, etc.