BLOGS

Passage-Based Question on International Law for CLAT PG

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In interpreting the Special Agreement, the Court will rely on the rules on treaty interpretation as codified in Articles 31 to 33 of the Vienna Convention on the Law of Treaties (hereinafter the 'Vienna Convention'). Although that Convention is not in force between the Parties, it is well established that these Articles reflect rules of customary international law (Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua). The Court notes that under the terms of Article 1, paragraph 1, of the Special Agreement, it is requested to determine whether the 'legal titles, treaties and international conventions' ('titres juridiques, traités et conventions internationales' in French) invoked by the Parties have the force of law in the relations between them in so far as they concern the delimitation of their common maritime and land boundaries and sovereignty over the islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga. In light of the general rule of interpretation reflected in Article 31 of the Vienna Convention, according to which a treaty shall be interpreted 'in accordance with the ordinary meaning to be given to the terms', it is difficult to see how it is possible to limit 'legal titles' to 'treaties and international conventions'. From a grammatical point of view, the absence of a comma following the words 'treaties and international conventions' suggests that the Parties wished to present these terms in a cumulative list. Moreover, the inclusion of 'legal titles' within the category of 'treaties and international conventions' would largely deprive the reference to 'legal titles' of significance. The Court and its predecessor, the Permanent Court of International Justice, have emphasized that the clauses of a special agreement by which a dispute is referred to the Court must, if this does not involve doing violence to their terms, be construed in a manner enabling the clauses themselves to have appropriate effects. Accordingly, the term 'legal titles' possesses a distinct meaning that is not limited to 'treaties and international conventions'. The Court does not consider that the term 'legal titles' is used in the Special Agreement in a way that requires a narrower interpretation than is usually given to this term. The Court observes that, in any event, the Parties agree that 'legal title' is a term of art. Where parties have used a legal term of art in a treaty, they must be presumed, as a general rule, to have intended that term to have the meaning which it generally bears in international law. The Court has had occasion to deal with the concept of legal title. In

the case concerning the Frontier Dispute (Burkina Faso/Republic of Mali), the Chamber of the Court observed that the term ‘title’ is generally not limited to documentary evidence alone but may also comprehend ‘both any evidence which may establish the existence of a right, and the actual source of that right. **Q1. When the ICJ applies Articles 31–33 of the Vienna Convention even though the Convention is not binding between the parties, it primarily relies on the doctrine of:**

a. Pacta sunt servanda

b. Jus cogens

c. Customary international law

d. Estoppel **Q2. The Court’s reliance on the “ordinary meaning” rule reflects which interpretative approach under international law?**

a. Teleological interpretation

b. Literal and contextual interpretation

c. Historical interpretation

d. Restrictive interpretation **Q3. The absence of a comma in the phrase “legal titles, treaties and international conventions” was treated by the Court as relevant because:**

a. Grammar is decisive in treaty interpretation

b. Punctuation may indicate cumulative or distinct intent

c. Drafting history overrides textual meaning

d. Language versions are irrelevant **Q4. Why did the Court reject an interpretation that confined “legal titles” to treaties and conventions alone?**

a. It would conflict with diplomatic correspondence

b. It would negate the principle of effective interpretation

c. It would violate State sovereignty

d. It would require amending the treaty **Q5. The principle that treaty clauses should be interpreted so as to give them practical effect is best described as:**

a. Good faith interpretation

b. Principle of effectiveness (effet utile)

c. Doctrine of acquired rights

d. Principle of reciprocity **Q6. When parties use a “term of art” in an international agreement, the Court presumes that the term:**

a. Has a meaning fixed by domestic law

b. Requires supplementary means of interpretation

c. Bears its generally accepted meaning in international law

d. Is ambiguous unless defined **Q7. The Court's approach suggests that "legal title" in international law may include:**

a. Only formal treaties

b. Only colonial-era instruments

c. Sources and evidence of rights

d. Political understandings **Q8. By referring to Frontier Dispute (Burkina Faso/Mali), the Court reinforces which broader methodological practice?**

a. Judicial activism

b. Reliance on municipal law analogies

c. Consistency with prior jurisprudence

d. Deference to executive interpretation **Q9. Which of the following best captures the distinction between "evidence of title" and "source of title" in international law?**

a. Evidence proves possession, source creates obligation

b. Evidence establishes facts, source establishes legal right

c. Evidence applies domestically, source applies internationally

d. There is no distinction between the two **Q10. The Court's refusal to adopt a narrow reading of "legal titles" reflects which interpretative presumption?**

a. Restrictive reading of jurisdiction

b. Presumption against surplusage

c. Presumption in favour of State discretion

d. Presumption of unilateral declarations **Q11. The use of customary international law rules of interpretation indicates that treaty interpretation:**

a. Depends on ratification status

b. Is governed solely by party consent

c. Has an objective normative framework

d. Varies from dispute to dispute **Q12. In boundary and territorial disputes, the concept of "legal title" is particularly significant because it:**

a. Overrides effectivités in all cases

b. Determines sovereignty independently of conduct

c. Serves as a primary juridical basis for territorial claims

d. Excludes historical considerations **Q13. The Court's interpretative approach most strongly limits which argumentative strategy by States?**

a. Reliance on unilateral acts

b. Over-formalistic textualism

c. Invocation of equity

d. Use of preparatory work **Q14. Which of the following best explains why the Court emphasized that "legal title" should not be deprived of significance?**

a. Treaties must always be read expansively

b. Jurisdictional clauses require strict interpretation

c. Redundant treaty terms undermine legal certainty

d. Judicial restraint demands minimal interpretation **Q15. The reasoning in the passage reflects the ICJ's broader role as:**

a. A political arbitrator

b. A mediator of diplomatic disputes

c. A judicial body applying structured legal reasoning

d. An advisory organ of the UN **Answers 1. Correct Answer: C – Customary international law**

Explanation: The ICJ frequently applies provisions of the Vienna Convention on the Law of Treaties even when the Convention is not formally binding between the disputing States. This is because Articles 31–33 are widely recognised as reflecting **customary international law**, which binds all States irrespective of treaty ratification. By relying on customary status, the Court reinforces the objective and universal nature of treaty interpretation rules, ensuring consistency across international adjudication. **2. Correct Answer: B – Literal and contextual interpretation**

Explanation: The "ordinary meaning" rule under Article 31 VCLT is not mere literalism. It requires the interpreter to read words in their **context and in light of the treaty's object and purpose**. The Court's reasoning demonstrates this balanced approach, where textual meaning is assessed alongside structure, language usage, and functional coherence of the agreement. **3. Correct Answer: B – Punctuation may indicate cumulative or distinct intent**

Explanation: While punctuation is not determinative, it can serve as an interpretative aid where it reflects drafting intent. The Court's attention to the absence of a comma shows that grammatical construction can support the conclusion that treaty terms are intended to be **distinct and cumulative**, rather than overlapping or redundant. **4. Correct Answer: B – It would negate the principle of effective interpretation**

Explanation: The ICJ consistently applies the principle that treaty provisions must not be interpreted in a way that deprives them of independent meaning. Restricting "legal titles" to

treaties would render the term legally meaningless, violating the principle of **effet utile**, which requires treaties to be interpreted so that all clauses produce legal effect. **5. Correct Answer: B – Principle of effectiveness (effet utile)**

Explanation: Effet utile is a foundational interpretative principle in international law. It ensures that treaties function as meaningful legal instruments rather than symbolic documents. The Court's reasoning reflects this by insisting that each category listed in the Special Agreement must retain autonomous legal significance. **6. Correct Answer: C – Bears its generally accepted meaning in international law**

Explanation: When States employ a recognised legal term of art, international courts presume that they intend its **established technical meaning**, unless the treaty indicates otherwise. This presumption promotes legal certainty and avoids subjective reinterpretation based on unilateral State preferences. **7. Correct Answer: C – Sources and evidence of rights**

Explanation: International law does not confine legal title to formal written instruments. The Court's approach acknowledges that title may derive from multiple juridical sources, including historical acts, treaties, succession, or recognised legal doctrines, supported by relevant evidence establishing the right. **8. Correct Answer: C – Consistency with prior jurisprudence**

Explanation: The ICJ frequently refers to its own past decisions and those of the PCIJ to maintain continuity and coherence in international law. This practice does not create binding precedent but fosters **jurisprudential consistency**, reinforcing predictability and stability in legal reasoning. **9. Correct Answer: B – Evidence establishes facts, source establishes legal right**

Explanation: The distinction is critical in territorial disputes. Evidence helps demonstrate the existence or exercise of sovereignty, while the source of title explains **why** the right exists in law. Confusing the two risks reducing legal adjudication to factual possession alone. **10. Correct Answer: B – Presumption against surplusage**

Explanation: International courts presume that States do not include meaningless or redundant terms in treaties. Every word is assumed to serve a legal purpose. This presumption strengthens treaty stability and respects State consent expressed through careful drafting. **11. Correct Answer: C – Has an objective normative framework**

Explanation: Treaty interpretation is governed by internationally accepted rules, not by subjective State intention after the fact. Customary interpretative norms impose **discipline and neutrality**, preventing opportunistic reinterpretation during disputes. **12. Correct Answer: C – Serves as a primary juridical basis for territorial claims**

Explanation: In international law, sovereignty is primarily a legal question. While factual control

(effectivités) may supplement title, it does not automatically replace a valid legal title. The Court's approach reaffirms the primacy of juridical entitlement. **13. Correct Answer: B – Over-formalistic textualism**

Explanation: The Court's reasoning shows resistance to narrow textual readings that ignore context, structure, and legal coherence. Treaty interpretation is purposive and systematic, not a mechanical exercise in word isolation. **14. Correct Answer: C – Redundant treaty terms undermine legal certainty**

Explanation: If treaty language is interpreted to include unnecessary or duplicative terms, it creates ambiguity and weakens legal predictability. The Court's insistence on giving meaning to "legal titles" preserves clarity and confidence in treaty obligations. **15. Correct Answer: C – A judicial body applying structured legal reasoning**

Explanation: The passage exemplifies the ICJ's judicial function: applying recognised sources, interpretative rules, and prior jurisprudence in a methodical manner. It underscores the Court's role as a legal—not political—arbiter in international disputes.