



## CHAPTER FIVE

# COMMISSION OF INQUIRY

### WHAT ARE COMMISSIONS OF INQUIRY?

To conduct in-depth investigations into conflicts and disputes, the United Nations Security Council establishes Commissions of Inquiry. These Commissions, each individually created by Security Council resolution, are tasked with providing reports that clarify the issues involved in the dispute, and, if necessary, identify which party or parties involved in the dispute bear responsibility for particular facets of the issue (e.g., the breaking of a ceasefire or violation of a border). Often, Commissions are also tasked with providing “good offices” to the parties in dispute by acting as a mediator in negotiations.

Each Commission is unique and created to address a specific conflict or dispute. While the reports these Commissions produce and any recommendations contained therein have no binding enforcement mechanism, those recommendations often form the basis for the future actions of the United Nations Security Council and the parties involved in the dispute.

At AMUN, the term “Commission of Inquiry” refers to the simulation of two such Commissions for a given year. The same group of representatives will comprise the separate Commissions, though this would be unlikely in practice. The Commission of Inquiry (COI) will operate primarily as an investigative body, with a mandate from the Security Council to provide clarity on the nature, causes and events within the disputes it has been asked to investigate; keep the Security Council apprised of new developments; and provide the Security Council with recommendations for a path towards a peaceful and final resolution of the dispute. The Commission may also, at times, act as a mediator in discussions between the parties to the dispute.

### COMMISSION OF INQUIRY MEMBERSHIP

The Commission of Inquiry is limited to 10 participants. These positions are for the duration of the Conference, and representatives serving as experts shall not be assigned to other simulations. Only one student per school may be seated on the Commission.

The delegations eligible to appoint an expert to the Commission are additionally limited by several elements specific to the inquiries before the Commission in a given year. Please see the Commission of Inquiry chapter of the *Issues at AMUN* handbook for more information about this year’s inquiries.

The COI is a historical simulation. Only States that were Members of the United Nations at the time of the simulated year may apply for a position on the Commission. Successor States will be identified for historical Member States that are no longer recognized as United Nations Members. This limitation is to preserve the integrity of the simulation and to encourage realistic historical research and simulation dynamics.

Several seats are determined by the States involved in the inquiries before the Commission. Each party to the dispute of each inquiry has the opportunity to nominate to the Commission a representative from another Member State. Because these positions are essential to the simulation and are also limited, a Commission seat designated for the

nominated Member States will be assigned as part of the Delegation Lottery in the preceding year. For more information about the unique role of the nominated experts, please see the “Duties of Commissioners” section later in this chapter.

The remaining positions are assigned by application on a first-come, first-served basis until the 10 seats on the Commission are filled.

Some States may *not* seat an expert on the Commission. In addition to those who were not Member States of the United Nations in the simulation year, any State involved in the conflicts being discussed by the Commission may not seat a representative. However, these delegations should anticipate having to represent their interests as Parties to the Dispute should the Commission wish to speak with them, and should prepare accordingly. Finally, the Permanent Five or P5 (China, France, Russian Federation, United Kingdom and the United States) may not appoint an expert to the Commission. This limitation is to provide expanded opportunities for non-P5 countries to participate in a premier simulation and to limit the size of the delegation required to represent a P5 State.

### STRUCTURE OF AMUN’S COMMISSION OF INQUIRY

As a historical simulation, many facts are known now that were not available at the time to anyone outside of the immediate dispute. To maintain the historical accuracy of the simulation, we strive to use only the material which would have reasonably been known to participants at the time. A start date, as well as a general overview of the dispute to that point, is provided for each inquiry in the *Issues at AMUN* handbook. Events, up to the start date, are static, though events may not be widely known or their import understood by all parties as of the start date. After the start date, all historical events may be preempted by the actions of the Commission and the responses thereto. This element of change and contingency separates the Commission’s work from a simple historical research project.

COIs are fact-finding instruments of the Security Council, established to deliver timely analysis of highly volatile situations. How the Commission chooses to conduct itself, the conclusions it draws and what it chooses to report back to the Security Council all will have a direct impact on current events and subsequent lines of inquiry. Immediate and direct reactions will be observable throughout the work of the body, from particulars like the amenability of a witness, to more sweeping changes such as the Security Council expanding or curtailing the Commission’s mandate.

At AMUN, members of the Secretariat called Simulation Staff are responsible for moderating how the world responds to the Commission’s actions, tracking the simulation, guiding the report-writing process and keeping the simulation as realistic as possible. Simulation Staff will play many roles throughout the simulation. They function as the Security Council receiving the COI’s reports and requesting more information from the Commission; they act as each expert’s home government, providing, upon request, supplemental research and general information to representatives; they are the clearinghouse for Commissioners to call parties to the dispute and witnesses before the COI; and they are



general Secretariat members who can speak to the simulation and AMUN in general.

Commissions of Inquiry at AMUN simulate two historical inquiries established by the Security Council, which are addressed sequentially during Conference by the COI's Commissioners. The Simulation Staff sets the order in which the inquiries are to be addressed; this order will be the order the topics are covered in the *Issues at AMUN* handbook. At AMUN, the members of the COI remain the same for both inquiries.

Throughout each inquiry, the Commission can make periodic reports back to the Security Council, and the Security Council may ask for additional information or focus on particular elements of the dispute. The Commission will also be able to take testimony of representatives of the parties to the dispute, as well as take testimony from additional witnesses such as inhabitants of the region, NGOs on the ground, and other United Nations bodies and States. For each inquiry, the Commission will elect a President and Vice President to help conduct its business. Each inquiry will conclude with a final, written report of the Commission's findings to the Security Council.

The final Commission session (Tuesday afternoon) will be a debrief by the Simulation Staff. This is a unique opportunity for Simulation Staff and Commissioners to discuss how and why the simulation differed from historical events, the behind-the-scenes consequences of the Commission's actions which may have been only indirectly visible to the COI as a whole, and the historical diplomatic themes of the inquiries and how those themes wound through the simulation.

## DUTIES OF THE COMMISSIONERS AT CONFERENCE

The first task of the Commission will be to elect a President and Vice President of each inquiry from among its members. The President and Vice President will help facilitate discussion, coordinate oral and written reporting requirements, and moderate the Commission's experts taking testimony for the duration of the inquiry. Elections are by secret written ballot at the beginning of each inquiry. Commissioners may self-nominate for these positions, and the Commission will be encouraged to discuss the decision before balloting takes place. Commissioners' pre-conference Preparatory Statements (see below) outline thoughts on the initial direction of the inquiry and may be especially useful in this discussion.

By its mandate, the Commission is authorized to take its decisions by majority vote and otherwise determine its own procedures. General Assembly, Economic and Social Council, and Security Council rules of procedure do not apply to Commissions. The Commission will need to informally adopt procedures that it feels best facilitate its work. That said, Rule 2.2, Diplomatic Courtesy, applies at all times at AMUN.

The Commission will gather information primarily by taking testimony from the parties to the dispute and other witnesses. The Commission, through its own processes, will decide who to call to give testimony. However, there will be time between the formal request of testimony and the arrival of the party to the dispute or witness. Commissioners will need to consider the criticality and urgency of testimony against the volatile dispute it is investigating as they decide which parties to the dispute or witnesses they call and in what order.

Before the final report of an inquiry is submitted, the Commission will make interim reports to the Security Council. Interim reports provide more frequent updates on the status of the Commission's work and can be especially useful diplomatic tools to open previously closed lines of inquiry or to ensure access and talks continue unimpeded. The Security Council may also request interim reports on specific elements of the dispute or in response to prior interim reports or events. These less formal reports are drafted as short letters to the Secretary-General and adopted by majority vote.

Throughout each inquiry, the Commission will compile a report on the dispute. While taking testimony, and throughout the evolving dispute, the report will be a living document. The Commission will need to establish the processes and responsibilities of its members for recording testimony and general note-taking. Commissioners are given wide latitude on the format of the report; however, to be accepted by the Secretariat each report must contain the following elements:

- An overview of the work and actions of the Commission.
- Analysis of the dispute, including a judgment of fault or an explanation of its absence.
- Recommendations to the Security Council to move forward.
- The inquiry will conclude upon the formal adoption by majority vote of the final report.

## PREPARING FOR THE COMMISSION OF INQUIRY AT AMUN

Commissioners will need to read the COI section in the *Issues at AMUN* handbook and further research the background of each of the disputes they will be discussing. This research should focus on acquiring a working knowledge of the historical context of the Commissions that will be simulated by the COI at Conference.

The Commission of Inquiry is a historical simulation, similar in some respects to the Historical Security Council simulations. History will be as written until the moment the Commission convenes at the beginning of Conference, but from that moment forward the events that transpire will be affected by the decisions and actions of the Commission, as well as those of the Simulation Staff. Critically for the Commission, many of the facts which we know today about the disputes may not have been known or were understood differently at the time of the Commission's operations. Representatives should endeavor to find timely materials in order to learn not just about the course of events themselves but also about the worldview of that time. Commissioners will need to understand not just the facts of the dispute as they are known now, but also what facts were known or not known by the Commission at the time of its actual proceedings.

Commissioners should also understand the position of their country of origin and State on the dispute: while the Commission is intended to render objective reporting on the dispute to the Security Council and Commissioners are expected to act as unbiased observers and mediators, Experts should understand whether their State historically preferred a particular outcome over another. Representatives from certain States, particularly those chosen by a Party to the Dispute to serve on the Commission, may be expected by their State or other actors to advocate certain courses of action or lines of inquiry. Clear understanding of these expectations as they were known and understood historically is critical for effective roleplayers. Regardless of State motives of



expectations, experts should keep in mind that they are independent actors and not officials representing their respective States and are, as such, free to take positions which are merited by their own understanding of the inquiry.

## PREPARATORY STATEMENTS

Commissioners will need to submit Preparatory Statements prior to Conference. These Statements will differ substantially from a conventional Position Paper and from a Memorial prepared for the International Court of Justice.

The purpose of the Commission is to act in an investigative and mediating role in a dispute rather than in a legislative capacity (such as in the General Assembly) or as an operational body (such as in the Security Council). The role of the Commission is more aligned with other report-writing bodies, such as the regional or functional commissions of the Economic and Social Council. Thus, Preparatory Statements should be seen as an opportunity to develop lines of inquiry and identify areas of interest to the Commission as a whole prior to Conference, rather than as declarations of intent or policy preference.

Preparatory Statements are a vital element of preparation for Conference. The potential witnesses, areas of interest and key questions identified by Commissioners in their Preparatory Statements will play a critical role in shaping the direction, and ultimately the success, of the Commission of Inquiry. The quality of Preparatory Statements will likely be taken into account by the Commission when deciding who to choose as the President and Vice President. Preparatory Statements will be considered when determining Position Paper awards: any delegation seating an expert on the Commission *must* submit a Preparatory Statement for each inquiry in order for the delegation to receive a Position Paper Award.

When preparing Preparatory Statements, consider the following questions:

1. What are the major unanswered questions in the dispute? How would the answers to these questions affect the resolution of the dispute?
2. Are there any major obstacles to the Commission fulfilling its mandate? Are there any steps the Commission can take or recommend to the Security Council to address those obstacles?
3. What witnesses, experts or representatives could be called to address the Commission and answer questions to best assist the Commission in fulfilling its mandate? What information can those persons provide to best assist the Commission in fulfilling its mandate?