



NMUN • NY

SECURITY COUNCIL  
BACKGROUND GUIDE 2012

Written By: Michael Buechl, Eva Helena Hernik-Sokolowski, Felipe Ante, Bobby Valentine



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## CONTACT THE NMUN

Please consult the FAQ section of [nmun.org](http://nmun.org) for answers to your questions. If you do not find a satisfactory answer you may also contact the individuals below for personal assistance. They may answer your question(s) or refer you to the best source for an answer.

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### NMUN•NY 2012 Important Dates

**IMPORTANT NOTICE:** To make hotel reservations, you must use the forms at [nmun.org](http://nmun.org) and include a \$1,000 deposit. Discount rates are available until the room block is full or one month before the conference – whichever comes first. **PLEASE BOOK EARLY!**

31 January 2012	<ul style="list-style-type: none"> <li>• Confirm Attendance &amp; Delegate Count. (Count may be changed up to 1 March)</li> <li>• Make Transportation Arrangements - DON'T FORGET! (We recommend confirming hotel accommodations prior to booking flights.)</li> </ul>
15 February 2012	<ul style="list-style-type: none"> <li>• Committee Updates Posted to <a href="http://www.nmun.org">www.nmun.org</a></li> </ul>
1 March 2012	<ul style="list-style-type: none"> <li>• Hotel Registration with FULL PRE-PAYMENT Due to Hotel - Register Early! Group Rates on hotel rooms are available on a first come, first served basis until sold out. Group rates, if still available, may not be honored after that date. See hotel reservation form for date final payment is due.</li> <li>• Any Changes to Delegate Numbers Must be Confirmed to: <a href="mailto:outreach@nmun.org">outreach@nmun.org</a></li> <li>• Preferred deadline for submission of Chair / Rapp applications to Committee Chairs</li> <li>• All Conference Fees Due to NMUN for confirmed delegates. (\$125 per delegate if paid by 1 March; \$150 per delegate if received after 1 March. Fee is not refundable after this deadline.</li> <li>• Two Copies of Each Position Paper Due via E-mail (See Delegate Preparation Guide for instructions).</li> </ul>
NATIONAL MODEL UNITED NATIONS 2012	<p>1 - 5 April – Sheraton New York 3 - 7 April - New York Marriott Marquis</p> <p>The 2013 National Model UN Conference 17 - 21 March &amp; 24 - 28 March (both at Sheraton; Sun-Thurs)</p>

## POSITION PAPER INSTRUCTIONS

**Two copies of each position paper should be sent via e-mail by 1 MARCH 2012**

### 1. TO COMMITTEE STAFF

A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed below. Mail papers by 1 March to the e-mail address listed for your particular venue. These e-mail addresses will be active when background guides are available. Delegates should carbon copy (cc:) themselves as confirmation of receipt. Please put committee and assignment in the subject line (Example: GAPLEN\_Greece).

### 2. TO DIRECTOR-GENERAL

- Each delegation should send one set of all position papers for each assignment to the e-mail designated for their venue: positionpapers.sheraton@nmun.org or positionpapers.marriott@nmun.org.

This set (held by each Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments.

*Note:* This e-mail should only be used as a repository for position papers.

- The head delegate or faculty member sending this message should cc: him/herself as confirmation of receipt. (Free programs like Adobe Acrobat or WinZip may need to be used to compress files if they are not plain text.)

- Because of the potential volume of e-mail, only one e-mail from the Head Delegate or Faculty Advisor containing all attached position papers will be accepted.

Please put committee, assignment and delegation name in the subject line (Example: Cuba\_U\_of\_ABC). If you have any questions, please contact the Director-General at dirgen@nmun.org.

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for more information

### COMMITTEE

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Commission on Narcotic Drugs.....	cnd.sheraton@nmun.org
Economic and Social Commission for Western Asia .....	escwa.sheraton@nmun.org
United Nations Children's Fund.....	unicef.sheraton@nmun.org
Conference on Sustainable Development (Rio+20) .....	csustd.sheraton@nmun.org
Food and Agriculture Organization.....	fao.sheraton@nmun.org
UN Educational, Scientific and Cultural Organization .....	unesco.sheraton@nmun.org
African Union.....	au.sheraton@nmun.org
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Organisation of Islamic Cooperation .....	oic.sheraton@nmun.org
Asia-Pacific Economic Cooperation .....	apec.sheraton@nmun.org
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### COMMITTEE

### EMAIL - MARRIOTT

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Commission on Narcotic Drugs.....	cnd.marriott@nmun.org
Economic and Social Commission for Western Asia .....	escwa.marriott@nmun.org
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Asia-Pacific Economic Cooperation .....	apec.marriott@nmun.org
Security Council A .....	sca.marriott@nmun.org
Security Council B.....	scb.marriott@nmun.org
International Criminal Court .....	icc.marriott@nmun.org
Peacebuilding Commission.....	psc.marriott@nmun.org
Conference on the Arms Trade Treaty .....	att.sheraton@nmun.org

### OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers .....	positionpapers.sheraton@nmun.org
(send only to e-mail for your assigned venue).....	positionpapers.marriott@nmun.org
Secretary-General .....	secgen.ny@nmun.org
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# THE 2012 NATIONAL MODEL UNITED NATIONS

SPONSORED BY THE NATIONAL COLLEGIATE CONFERENCE ASSOCIATION

1 – 5 April (Sheraton) & 3 – 7 April (Marriott) • [www.nmun.org](http://www.nmun.org)

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Dear Delegates,

It is our immense pleasure to welcome you to the 2012 National Model United Nations Conference. With an impressive roster of universities and institutions in attendance and an array of intriguing topics, this year promises to be truly memorable. You and your team are integral in making the 2012 NMUN Conference historic.

Your Directors for the Security Council are Michael Büchl, Felipe Ante, Eva-Helena Hernik-Sokolowski, and Bobby Valentine. Michael heads up Security Council A at the Sheraton venue. He is in his final year completing his M.A. in political science with corresponding minors in both history and international law at Ludwig Maximilian University of Munich. This conference marks Michael's second year on NMUN staff. Eva directs Security Council A at the Marriott venue. Having received her B.A. in International Criminal Justice as well as an M.A. in Criminal Justice from John Jay College of Criminal Justice, Eva is completing her second M.A. in International Relations at the City College of New York. Felipe directs the Security Council B for the Sheraton Venue. He holds a B.A. in International Relations with minors in History and Political Science and is currently working in a political consultancy company. In addition to staffing model UN conferences throughout Latin America, Felipe has worked with the NMUN for several years. Bobby heads up the Security Council B for the Marriott venue. Beyond several years of experience in business development and marketing consulting, Bobby holds a B.A. in political science from the University of California, Berkeley and is currently working in a Ph.D. program at the University of Chicago. This is Bobby's second year as a staff member with NMUN.

The agenda topics for discussions this year are as follows:

1. Managing Peace, Security, and Prosperity in the South China Sea
2. Enhancing Efficiency and Credibility of UN Sanctions
3. Nuclear Disarmament and Non-Proliferation

The Security Council is the principle peace- and security-building organ of the United Nations. Consequently, it wields a wider ambit in both enforcement authority and the responsibility to protect with regard to the international community. As delegates simulating this body, your research, preparation, and writing should reflect the highest caliber of effort and teamwork.

The background guide herein will serve as a brief introduction to the topics listed but cannot replace substantive research of your own. Use it as a springboard for a deep analysis into each topic so that your delegation is empowered to harness the Security Council venue to engender greater prospects for international peace. Each delegation must submit a position paper that identifies its viewpoints on the agenda topics. NMUN will accept position papers via e-mail by March 01, 2012. Please refer to page 4 of the guide for a message from your Director-General explaining the NMUN position paper requirements and restrictions. Adherence to these guidelines is crucial. NMUN can be one of the most rewarding academic experiences of your college career. If you have any questions regarding your preparation, please feel free to contact any of the Security Council substantive staff or the Under-Secretaries-General for Peace and Security, Hannah Birkenkoetter (Marriott) and Sameer Kanal (Sheraton). Good luck in your preparation for the conference. We look forward to seeing you in April!

Sincerely,

*Sheraton Venue*  
Michael Büchl  
Felipe Ante

*Marriott Venue*  
Eva-Helena Hernik-Sokolowski  
Bobby Valentine

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## Message from the Directors-General Regarding Position Papers for the 2012 NMUN Conference

At the 2012 NMUN New York Conference, each delegation submits one position paper for each committee to which it is assigned. Delegates should be aware that their role in each committee affects the way a position paper should be written. While most delegates will serve as representatives of Member States, some may also serve as observers, NGOs, or judicial experts. To understand these differences, please refer to the Delegate Preparation Guide.

Position papers should provide a concise review of each delegation's policy regarding the topic areas under discussion and should establish precise policies and recommendations about the topics before the committee. International and regional conventions, treaties, declarations, resolutions, and programs of action of relevance to the policy of your State should be identified and addressed. Making recommendations for action by your committee should also be considered. Position papers also serve as a blueprint for individual delegates to remember their country's position throughout the course of the Conference. NGO position papers should be constructed in the same fashion as position papers of countries. Each topic should be addressed briefly in a succinct policy statement representing the relevant views of your assigned NGO. You should also include recommendations for action to be taken by your committee. It will be judged using the same criteria as all country position papers, and is held to the same standard of timeliness.

Please be forewarned, delegates must turn in entirely original material. *The NMUN Conference will not tolerate the occurrence of plagiarism.* In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim re-creation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the Committee Background Guides. Violation of this policy will be immediately reported to faculty advisors and it may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

Delegation's position papers can be awarded as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below. Please refer to the sample paper on the following page for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single-spaced pages (one double-sided paper, if printed)
- Font must be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at one inch for whole paper
- Country/NGO name, School name and committee name clearly labeled on the first page,
- The use of national symbols is highly discouraged
- Agenda topics clearly labeled in separate sections

To be considered timely for awards, please read and follow these directions:

1. **A file of the position paper** (.doc or .pdf format required) **for each assigned committee** should be sent to the committee email address listed in the Background Guide. These e-mail addresses will be active after November 15, 2011. Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each delegation should also send **one set of all position papers** to the e-mail designated for their venue: [positionpapers.sheraton@nmun.org](mailto:positionpapers.sheraton@nmun.org) or [positionpapers.marriott@nmun.org](mailto:positionpapers.marriott@nmun.org). This set will serve as a back-up

copy in case individual committee directors cannot open attachments. These copies will also be made available in Home Government during the week of the NMUN Conference.

Each of the above listed tasks needs to be completed no later than **March 1, 2012 (GMT-5) for delegations attending the NMUN conference at either the Sheraton or the Marriott venue.**

**PLEASE TITLE EACH E-MAIL/DOCUMENT WITH THE NAME OF THE COMMITTEE, ASSIGNMENT AND DELEGATION NAME (Example: AU\_Namibia\_University of Caprivi)**

*A matrix of received papers will be posted online for delegations to check prior to the Conference. If you need to make other arrangements for submission, please contact Amanda D'Amico, Director-General, Sheraton venue, or Nicholas Warino, Director-General, Marriott venue at [dirgen@nmun.org](mailto:dirgen@nmun.org). There is an option for delegations to submit physical copies via regular mail if needed.*

Once the formal requirements outlined above are met, Conference staff use the following criteria to evaluate Position Papers:

- Overall quality of writing, proper style, grammar, etc.
- Citation of relevant resolutions/documents
- General consistency with bloc/geopolitical constraints
- Consistency with the constraints of the United Nations
- Analysis of issues, rather than reiteration of the Committee Background Guide
- Outline of (official) policy aims within the committee's mandate

Each delegation can submit a copy of their position paper to the permanent mission of the country being represented, along with an explanation of the Conference. Those delegations representing NGOs do not have to send their position paper to their NGO headquarters, although it is encouraged. This will assist them in preparation for the mission briefing in New York.

Finally, please consider that over 2,000 papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and it is greatly appreciated. Should you have any questions please feel free to contact the Conference staff, though as we do not operate out of a central office or location, your consideration for time zone differences is appreciated.

Sincerely yours,

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*Marriott Venue*  
Nicholas Warino  
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**Delegation from  
The United Mexican States**

**Represented by  
(Name of College)**

### ***Position Paper for the General Assembly Plenary***

The issues before the General Assembly Plenary are: The Use of Economic Sanctions for Political and Economic Compulsion; Democracy and Human Rights in Post-Conflict Regions; as well as The Promotion of Durable Peace and Sustainable Development in Africa. The Mexican Delegation first would like to convey its gratitude being elected and pride to serve as vice-president of the current General Assembly Plenary session.

#### **I. The Use of Economic Sanctions for Political and Economic Compulsion**

The principles of equal sovereignty of states and non-interference, as laid down in the Charter of the United Nations, have always been cornerstones of Mexican foreign policy. The legitimate right to interfere by the use of coercive measures, such as economic sanctions, is laid down in Article 41 of the UN-charter and reserves the right to the Security Council.

Concerning the violation of this principle by the application of unilateral measures outside the framework of the United Nations, H.E. Ambassador to the United Nations Enrique Berruga Filloy underlined in 2005 that the Mexico strongly rejects “the application of unilateral laws and measures of economic blockade against any State, as well as the implementation of coercive measures without the authorization enshrined in the Charter of the United Nations.” That is the reason, why the United Mexican States supported – for the 14th consecutive time – Resolution (A/RES/60/12) of 2006 regarding the *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*.

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest. An example is the case of negative spill-over effects of economic sanctions on neighboring countries, in which affected countries additionally need to be enabled to voice their problems more effectively, as addressed in the resolution *Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions* (A/RES/54/107). Non-state actors have in the last years tremendously grown in their political importance, especially with regard to the international fight against terrorism. Their position and the possibilities of the application of economic sanction on non-state actors is another topic that urgently needs to be considered.

#### **II. Democracy and Human Rights in Post-Conflict Regions**

As a founding member of the United Nations, Mexico is highly engaged in the Promotion of Democracy and Human Rights all over the world, as laid down in the *Universal Declaration on Human Rights (UDHR)* in 1948. Especially since the democratic transition of Mexico in 2000 it is one of the most urgent topics to stand for Democratization and Human Rights, and Mexico implements this vision on many different fronts.

In the Convoking Group of the intergovernmental Community of Democracies (GC), the United Mexican States uphold an approach that fosters international cooperation to promote democratic values and institution-building at the national and international level. To emphasize the strong interrelation between human rights and the building of democracy and to fortify democratic developments are further challenges Mexico deals with in this committee. A key-factor for the sustainable development of a post-conflict-region is to hold free and fair election and thus creating a democratic system. Being aware of the need of post-conflict countries for support in the preparation of democratic elections, the United Mexican States contribute since 2001 to the work of the International Institute for Democracy

and Electoral Assistance (IDEA), an intergovernmental organization operating at international, regional and national level in partnership with a range of institutions. Mexico's foreign policy regarding human rights is substantially based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

The objectives Mexico pursues are to improve human rights in the country through structural changes and to fortify the legal and institutional frame for the protection of human rights on the international level. Underlining the connection between democracy, development and Human Rights, stresses the importance of cooperation with and the role of the High Commissioner on Human Rights and the reform of the Human Rights Commission to a Human rights Council.

Having in mind the diversity of challenges in enforcing democracy and Human Rights, Mexico considers regional and national approaches vital for their endorsement, as Mexico exemplifies with its *National Program for Human Rights* or the *Plan Puebla Panama*. On the global level, Mexico is encouraged in working on a greater coordination and interoperability among the United Nations and regional organizations, as well as the development of common strategies and operational policies and the sharing of best practices in civilian crisis management should be encouraged, including clear frameworks for joint operations, when applicable.

### **III. The Promotion of Durable Peace and Sustainable Development in Africa**

The United Mexican States welcome the leadership role the African Union has taken regarding the security problems of the continent. Our delegation is furthermore convinced that The New Partnership for Africa's Development (NEPAD) can become the foundation for Africa's economic, social and democratic development as the basis for sustainable peace. Therefore it deserves the full support of the international community.

The development of the United Mexican States in the last two decades is characterized by the transition to a full democracy, the national and regional promotion of human rights and sustainable, economic growth. Mexico's development is characterized by free trade and its regional integration in the North American Free Trade Agreement. Having in mind that sustainable development is based not only on economic, but as well on social and environmental development, President Vicente Fox has made sustainable development a guiding principle in the Mexican Development Plan that includes sustainability targets for all major policy areas.

The United Nations Security Council has established not less than seven peace-keeping missions on the African continent, underlining the need for full support by the international community. In post-conflict situations, we regard national reconciliation as a precondition for a peaceful development, which is the reason why Mexico supported such committees, i.e. in the case of Sierra Leone. The United Mexican States are convinced that an other to enhance durable peace in Africa is the institutional reform of the United Nations. We therefore want to reaffirm our full support to both the establishment of the peace-building commission and the Human Rights Council. Both topics are highly interrelated and, having in mind that the breach of peace is most often linked with severest human rights' abuses, thus need to be seen as two sides of one problem and be approached in this understanding.

As most conflicts have their roots in conflicts about economic resources and development chances, human development and the eradication of poverty must be at the heart of a successful, preventive approach. Lifting people out of poverty must be seen as a precondition not only for peace, but for social development and environmental sustainability.

The United Mexican States want to express their esteem for the decision taken by the G-8 countries for a complete debt-relief for many African Highly-Indebted-Poor-Countries. Nevertheless, many commitments made by the international community that are crucial for Africa's sustainable development are unfulfilled. The developed countries agreed in the *Monterrey Consensus of the International Conference on Financing for Development* (A/CONF.198/11) to increase their Official Development Aid (ODA) "towards the target of 0,7 per cent of gross national product (GNP) as ODA to developing countries and 0,15 to 0,20 per cent of GNP of developed countries to least developed countries". Furthermore, the United Mexican States are disappointed by the result of the Hong Kong Ministerial conference of the World Trade Organization, which once more failed to meet the needs of those, to whom the round was devoted: developing countries and especially African countries, who today, more than ever, are cut off from global trade and prosperity by protectionism.

With regard to the African Peer Review Mechanism, the United Mexican States want to underline that good governance is an integral part of sustainable development. Therefore, we support all efforts by African countries to make the mechanism obligatory to increase transparency and accountability in all African countries.



## Committee History

*“We the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind...”<sup>1</sup>*

### **Main Duties and Powers**

The Preamble of the *Charter of the United Nations* defines one of the central aims of the United Nations as the maintenance of international peace and security.<sup>2</sup> The Security Council (SC) is the principal organ of the United Nations tasked with achieving these goals.<sup>3</sup> Therefore, the *Charter of the United Nations* provides the SC with a vast array of powers that are unique within the United Nations system.<sup>4</sup>

The SC stands at the heart of what was designed to be a system of collective security defined in Article 2(4) of the Charter.<sup>5</sup> The SC, therefore, bears the main responsibility for maintaining international peace and security.<sup>6</sup> The Security Council is the only organ of the United Nations able to authorize the use of force.<sup>7</sup> Unlike other UN bodies, all decisions of the SC are binding upon all UN Member States.<sup>8</sup>

To solve international conflicts, the SC can apply a variety of measures listed Chapters VI and VII of the *Charter*.<sup>9</sup> Article 34 of the *Charter* enables the SC to “investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.”<sup>10</sup> Any state which is a party to the issue may address the SC in cases of such disputes, including states who are not members of the United Nations.<sup>11</sup> The SC can then encourage the parties to utilize peaceful measures to settle such a dispute.<sup>12</sup>

The SC may also utilize military responses to “any threat to the peace, breach to the peace or act of aggression” if the SC determines that such an act has occurred.<sup>13</sup> These responses include economic sanctions, as outlined in Article 41 of the *Charter*, as well as military action that may be necessary to maintain or restore international peace and security.<sup>14</sup> For the implementation of the enforcement mechanism, the SC may partner with regional organizations.<sup>15</sup>

The SC may also establish subsidiary bodies “as it deems necessary for the performance of its functions.”<sup>16</sup> Currently, there are 10 subsidiary bodies.<sup>17</sup> The SC is also tasked with recommending states to the General Assembly (GA) for admission to the United Nations.<sup>18</sup> The Council also nominates the Secretary-General of the United Nations (SG) for approval by the GA, which has proven to be, in effect, the actual selection process of the SG.<sup>19</sup>

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<sup>1</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Preamble.

<sup>2</sup> Wolfrum, *Preamble*, 2002, p. 33-37.

<sup>3</sup> Malone, *Security Council*, 2007, p. 117.

<sup>4</sup> Malone, *Security Council*, 2007, p. 117.

<sup>5</sup> United Nations, *Charter of the United Nations*, 1945, Chapter I, Art. 2(4).

<sup>6</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VI, Art. 24.

<sup>7</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VII, Art. 51.

<sup>8</sup> United Nations *Charter of the United Nations*, 1945, Chapter VI, Art. 25.

<sup>9</sup> United Nations, *Charter of the United Nations*, 1945, Chapters VI and VII.

<sup>10</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VII, Art. 34.

<sup>11</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V, Art. 35.

<sup>12</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VI, Art. 33 (1).

<sup>13</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VII, Art. 39.

<sup>14</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VII, Art. 42.

<sup>15</sup> United Nations, *Charter of the United Nations*, 1945, Chapter VIII, Art. 53.

<sup>16</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V, Art. 29.

<sup>17</sup> United Nations Department for Public Information, *Security Council, Subsidiary Bodies*, 2011.

Security Council Report, *Council Committees and other Subsidiary Bodies*, 2011.

<sup>18</sup> United Nations, *Charter of the United Nations*, 1945, Chapter II, Art. 4 (2).

Security Council Report, *Publications on Admission of New UN Member States*, 2011.

<sup>19</sup> United Nations, *Charter of the United Nations*, 1945, Chapter II, Art. 97.

Security Council Report, *Special Research Report No. 3 Appointment of the UN Secretary-General*, 2011.

The SC may request investigation by the Prosecutor of the International Criminal Court (ICC) of alleged crimes falling under the jurisdiction of the ICC; the Council may request investigation even if the object of investigation is not a national of a state party to the Rome Statute.<sup>20</sup>

Peacekeeping is not specifically mentioned in the Charter, though peacekeeping operations have developed as a very prominent tool of the SC in addressing conflicts.<sup>21</sup> Therefore, peacekeeping is often referred to as “Chapter VI ½.”<sup>22</sup>

### ***Voting and Membership***

The SC consists of 15 Member States of the United Nations.<sup>23</sup> There are five permanent Members of the Council (P5), which are defined as the Republic of China (ROC), the Russian Federation, France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.<sup>24</sup> The Republic of China was, at the time of its inclusion as a permanent member of the Council, the government controlling both mainland China and the island of Formosa; however, the People’s Republic of China (PRC) has controlled the mainland since 1949, a status which was reflected when the General Assembly (GA) passed *Resolution 2758* in 1971, replacing the ROC with the PRC in all organs of the United Nations.<sup>25</sup> Additionally, with the collapse of the Soviet Union in 1991, the Russian Federation was recognized as the legal successor state to the USSR, and consequently took over the USSR’s seat in UN organs such as the Security Council that year.<sup>26</sup>

The other 10 Member States of the SC are selected through a majority vote by the GA for a two-year term on the Council, with five seats elected every year.<sup>27</sup> The General Assembly has created a regional allocation system for these seats, with three African states, two Asian states, two Latin American states, one Eastern European state, and two Western European and Other states holding these seats.<sup>28</sup>

The voting procedure of the SC differs from that in other UN bodies. Every Member State of the SC has one vote, and the majority needed for procedural votes in the SC is nine votes.<sup>29</sup> For every substantive vote, to pass, it is necessary to have nine votes in favor, including “the concurring votes of the permanent members,” a provision popularly described as “veto power.”<sup>30</sup> Abstentions of permanent members are not counted as negative votes.<sup>31</sup> While nowadays the veto is rarely used and most of the SC decisions are based on consensus, the impact of ‘informal veto,’ or the threat of a veto, is very important during negotiations, circumscribing the debate if a potential course of action is unacceptable to a permanent member.<sup>32</sup>

### ***Brief History of the Security Council***

The history of the SC can be divided into two phases: the first from the creation of the United Nations until the mid-1980s and the second in the post-Cold War phase.<sup>33</sup> With the onset of the Cold War shortly after the foundation of the United Nations, the SC found itself in gridlock, with the United States and the Soviet Union making frequent use of their veto power.<sup>34</sup> In order to circumvent the deadlock in the Security Council over the Korea War, the GA passed *Resolution 377*, which is also referred to as the “Uniting for Peace” resolution, enabling the GA to consider SC topics in cases where the SC fails to act in order to maintain international peace and security.<sup>35</sup> “Uniting for

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<sup>20</sup> International Criminal Court, *Rome Statute of the International Criminal Court*, 1998, Art. 13(b).

<sup>21</sup> Bothe, *Peacekeeping*, 2002, p. 684f.

Doyle and Sambanis, *Peacekeeping Operations*, 2007, p. 324.

<sup>22</sup> Berdal, *The Council and Peacekeeping*, 2008, p. 179.

Doyle and Sambanis, *Peacekeeping Operations*, 2007, p. 324f.

<sup>23</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V Art. 23 (1).

<sup>24</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V Art. 23 (1).

<sup>25</sup> United Nations General Assembly, *Resolution 2758*, 1971.

<sup>26</sup> Geiger, *Article 23, B. Permanent Members*, 2002, p. 439.

<sup>27</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V Art. 23 (2).

<sup>28</sup> United Nations General Assembly, *Resolution 1991*, 1963.

Geiger, *Article 23, B. Permanent Members*, 2002, p. 440.

<sup>29</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V Art. 27 (2).

<sup>30</sup> United Nations, *Charter of the United Nations*, 1945, Chapter V Art. 27 (3).

<sup>31</sup> Simma, Brunner and Kaul, *Article 27*, 2002, p. 493.

<sup>32</sup> Simma, Brunner, and Kaul, *Article 27*, 2002, p. 515.

<sup>33</sup> Malone, *Security Council*, 2007, p. 117.

<sup>34</sup> Malone, *Security Council*, 2007, p. 121.

<sup>35</sup> United Nations General Assembly, *Resolution 377*, 1950.

Peace<sup>36</sup> shaped the balance of power between the SC and the GA and enabled the establishment of the first peacekeeping mission in the Suez Crisis of 1956.<sup>36</sup>

The end of the Cold War marked new opportunities for the SC.<sup>37</sup> Consequently, the Council expanded its fields of concern and intensified its peacekeeping efforts.<sup>38</sup> At present, some 119,809 UN peacekeepers serve in 15 peacekeeping missions.<sup>39</sup> Additionally, economic sanctions, an intermediate step prior to military enforcement, became an essential instrument of the SC's response to threats to international peace and security.<sup>40</sup>

The SC has increasingly expanded its view of what constitutes a threat to security, moving from addressing security among states to also addressing human security.<sup>41</sup> This has led to the Council authorizing humanitarian interventions, although this has been inconsistent, with some cases of severe human rights violations leading to action and others, due to lack of agreement, being essentially ignored.<sup>42</sup> The SC also created the International Criminal Tribunals for Yugoslavia and Rwanda to prosecute the war crimes of the respective conflicts.<sup>43</sup>

Before the end of the Cold War, the SC paid little attention to the issue of terrorism.<sup>44</sup> With the increased awareness of the threat posed by groups such as Al Qaeda, the SC moved from case-specific action towards a more general approach, viewing terrorism as a thematic topic.<sup>45</sup> After the attacks on the United States of September 11, 2001 the SC passed *Resolution 1373*, obligating all Member States to take measures against terrorist activities.<sup>46</sup> The Council also created committees monitoring the requested counter-terrorism activities.<sup>47</sup> The Council also adopted *Resolution 1540* on the topic, which obliges Member States to take measures against the possible acquisition of weapons of mass destruction by terrorist groups.<sup>48</sup>

The Security Council has also expanded its work in the area of Protection of Civilians (POC).<sup>49</sup> The Council had previously addressed issues related to refugees and humanitarian aid in the contexts of conflicts in the Balkans and in Somalia.<sup>50</sup> In *Resolution 1208* (1999), the SC directly addressed the issue refugee security in African refugee camps.<sup>51</sup> Particular attention was also paid to vulnerable groups, such as women and children, in the context of the Protection of Civilians agenda item.<sup>52</sup> Other issues the Council has increasingly viewed as part of its mandate include HIV/AIDS and global warming, though the Council has not yet passed a resolution on the latter topic.<sup>53</sup>

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<sup>36</sup> Zaum, *The Uniting for Peace Resolution*, 2008, p. 155.

Louis, *The UN and the Suez Crisis*, 2008, p. 296.

<sup>37</sup> Greenstock, *The Security Council in the Post-Cold War World*, 2008, p. 248f.

<sup>38</sup> Malone, *Security Council*, 2007, p. 122.

<sup>39</sup> United Nations Department of Public Information, *United Nations Peacekeeping Factsheet*, 2011.

<sup>40</sup> Coertright, and Gerber, *The Sanctions Era: Trends in UN Security Council Sanctions since 1990*, 2008, p. 205.

<sup>41</sup> Hampson and Penny, *Human Security*, 2008, p. 539ff.

<sup>42</sup> Welsh, *The Council and Humanitarian Intervention*, 2008, p. 535ff.

<sup>43</sup> United Nations International Criminal Tribunal for the former Yugoslavia, *About the ICTY*, 2011.

United Nations International Criminal Tribunal for Rwanda, *General Information*, 2011.

<sup>44</sup> Boulden, *The Security Council and Terrorism*, 2008, p. 609.

<sup>45</sup> Boulden, *The Security Council and Terrorism*, 2008, p. 611.

United Nations Security Council, *Resolution 731*, 1992.

United Nations Security Council, *Resolution 1269*, 1999.

<sup>46</sup> United Nations Security Council, *Resolution 1373*, 2001.

<sup>47</sup> United Nations Department of Public Information, *UN Action to Counter Terrorism, Security Council Actions to Counter Terrorism Counter-terrorism and related bodies*, 2010.

<sup>48</sup> United Nations Security Council, *Resolution 1540*, 2004.

<sup>49</sup> Security Council Report, *Cross Cutting Report No. 2 Protection of Civilians*, 2011.

<sup>50</sup> Welsh, *The Council and Humanitarian Intervention*, 2008, p. 540.

Smith, *The Council and the Bosnian Conflict*, 2008, p. 446.

<sup>51</sup> United Nations Security Council, *Resolution 1208*, 1998.

<sup>52</sup> United Nations Security Council, *Resolution 1261*, 1999.

United Nations Security Council, *Resolution 1820*, 2008.

<sup>53</sup> United Nations Security Council, *Resolution 1308*, 2000.

UN Department of Public Information, *Security Council holds first-ever debate on impact of climate change on peace, security, hearing over 50 speakers*, 2007.

## ***Criticism and Reform Initiatives***

The SC has been target of heavy criticism from various fronts. The most common criticism is that the P5 system reflects the power dynamic of the post-World War II period and not today's world.<sup>54</sup> There have been numerous related reform proposals. Currently there are two groups of states pushing for the inclusion of new permanent members to the SC: the G4 (India, Brazil, Japan and Germany), which supports increased permanent membership, and the "Uniting for Consensus" group (also known as the Coffee Club), which consists of Italy, Pakistan, South Korea, Spain, Mexico, Turkey, Canada, and Malta, and which supports permanent seats on a regional, rotating basis, as well as renewable, longer-term non-permanent seats.<sup>55</sup> Finally, the Small Five (Costa Rica, Jordan, Liechtenstein, Singapore, and Switzerland) is pushing for a general reform of the working methods of the Security Council.<sup>56</sup>

In adopting *Resolutions 1373 and 1540*, the SC has been described as moving towards a rule as a "world legislator" imposing obligations on Member States by "establishing new binding rules of international law," a development strongly contested.<sup>57</sup>

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<sup>54</sup> Fassbender, *Pressure for Security Council Reform*, 2004, p. 342.

<sup>55</sup> The Permanent Mission of Germany to the United Nations, *Joint statement on the Ministerial Meeting of the G4 on Security Council Reform in the margins of the 66th UN General Assembly*, 2011.

Secretaría des Relaciones Exteriores, *Mexico's Position on UN Security Council Reform*, 2011.

<sup>56</sup> Center for UN Reform Education, *S5 presents draft resolution on Improving Working Methods of the Security Council*, 2011.

<sup>57</sup> Johnstone, *The Security Council as legislature*, 2008, p. 81.

Cohen, *A Global State of Emergency or the Further Constitutionalization of International Law: A Pluralist Approach*, 2008, p. 457.

*Simma's commentary is commonly seen as the most decisive book on the Charter of the United Nations. The current edition, published in 2002, includes new contemporary issues like terrorism though still lacks the most recent developments such as the implementation of the R2P. The commentary also provides vast information on the legislative history of the UN Charter and discusses the general meaning and problems of the different Articles of the Charter in great detail.*

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*United Nations General Assembly Resolution 1991 set in place the only change in the UN Charter wording affecting the Security Council. The Resolution changed the number of Security Council Member States from 12 to 15, taking into consideration the growth of UN membership beginning with the period of decolonization. Furthermore it specifies the composition of the non-permanent SC Member States specifying Art. 23 (1) of the UN Charter. For the understanding of the current composition of the SC and also the procedure of a SC reform delegates should be aware of this resolution.*

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## **I. Managing Peace and Security in the South China Sea<sup>58</sup>**

### ***Introduction***

In the post-Cold War political world, the South China Sea (SCS) constitutes a region most prone to inter-state escalation and conflict.<sup>59</sup> The SCS is home to vast potential and proven resources of energy as well as vital sea-lanes for security and commerce. It also harbors perhaps the most consequential set of international territorial disputes, fueled by competing claims of Member States' national interests. While other regions globally have developed more secure environments and meaningfully reduced military expenditures, the littoral states among the South China Sea alone have increased military outlays over 50% in the last 10 years alone.<sup>60</sup> Coupled with military commitments and alliances by major military powers such as the United States (U.S.), the SCS threatens to be a flashpoint for wider security destabilization.<sup>61</sup> Under Article 24 (1) and 34 of the United Nations (UN) Charter, the mandate of the Security Council (SC) includes investigating situations that might lead to international friction and recommending methods of adjusting such disputes or terms of settlement, Article 36 UN Charter. Thus, the SC may work to manage long-term peace and security in the SCS.

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<sup>58</sup> This is an updated version of the topic (posted on 12 December). The earlier materials contained language that did not recognize the One China Policy. Additional care has been taken by the authors to inform on the interests in the region without drawing conclusions. The previous version was not intentional, but we offer this new text as a transparent reminder of the sensitive nature of many issues as well as the diplomatic importance of word choice.

<sup>59</sup> Christensen, *Fostering Stability or Creating a Monster?: The Rise of China and U.S. Policy Toward East Asia*, 2006, pp. 82.

<sup>60</sup> Stockholm International Peace Research Center, *The SIPRC Military Expenditure Database*, 2011.

<sup>61</sup> Kaplan, *The South China Sea is the Future of Conflict*, 2011, p. 3.



## *Geostrategic Significance*

Encompassing nearly 3.5 million square kilometers, the South China Sea stretches from Singapore and the Straits of Malacca to the Taiwan Straits.<sup>62</sup> The international value of the SCS has three principle axes: resources, sea-lanes, and security. First, the SCS constitutes a massive potential of direct wealth to those who possess its assets via oil, natural gas, and fishing arenas. Oil reserves estimates range wildly from as high as 213 billion barrels (bbl) to as low as 28 billion bbl.<sup>63</sup> Interestingly, oil only comprises approximately 30-40% of the total hydrocarbon estimates of the SCS.<sup>64</sup> Nearly all fields previously explored contain natural gas only.<sup>65</sup> In fact, China has estimated that the SCS holds around two quadrillion cubic feet of natural gas reserves.<sup>66</sup>

Much of the speculation over hydrocarbon amounts revolves around two archipelagos called the Spratly and the Paracel Islands. Due to conflicting claims over these archipelagos, surveys and exploration remain inadequate for accurate estimates.<sup>67</sup> Currently, China estimates that the Spratly Islands alone contain 900 trillion cubic feet (Tcf) of natural gas.<sup>68</sup> If accurate, the islands would be equivalent to China's current reserves, which currently rank 11<sup>th</sup> in volume and nearly three times that of the U.S.<sup>69</sup> Recently, Husky Energy and the Chinese National Offshore Oil Corporation announced discovering a proven natural gas reserve of nearly six Tcf near the Spratly Islands.<sup>70</sup> In addition to the robust offshore fishing economies that comprise the SCS, these hydrocarbon stores suggest that possessing key islands definitively endows such Member States with significant, strategic wealth.

Beyond resources, the South China Sea hosts perhaps the most significant global sea-lanes in the world. Joining the Southeast Asian states with the Western Pacific, the SCS hosts more than half the world's annual merchant fleet tonnage and a third of all maritime traffic.<sup>71</sup> The oil that passes through the Strait of Malacca alone is more than six times that which passes through the Suez Canal.<sup>72</sup> In fact, nearly 80% of China's crude oil imports arrive through the SCS. Moreover, natural gas shipments through the SCS constitute two-thirds of the world's overall natural gas trade.<sup>73</sup> As the principle recipient of this natural gas, Japan depended upon this supply for 11% of its total energy supplies.<sup>74</sup> Importantly, most of the raw materials shipments pass near the Spratly Islands, making their contestation problematic to commerce.<sup>75</sup> Major disruption of any of these commercial lanes would have sweeping local and global effects. Locally, citizens and businesses of affected Member States could face dramatic increase in energy prices, driving up costs for practically all sectors of their economy.<sup>76</sup> Globally, the dramatic access shortfall could lead to a painful supply line restructuring for major consumers in East/Southeast Asia.<sup>77</sup> Such restructuring coupled with the concomitant rise in transaction costs attached to energy commerce would drive world prices skyward.<sup>78</sup> The main point is that territorial control over key areas in the SCS command tremendous leverage in state interaction or coercion. Rightly, the international community shares concern over how these commercial lanes are managed.

Securing the safe and predictable commercial flows in the South China Sea is only one facet of a more general issue of regional security. Naturally, each Member State seeks to maximize its security and sovereignty over territory.<sup>79</sup> While each state will often act to minimize the political leverage other states may employ against it (like command

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<sup>62</sup>Tønnesson, Stein, *Locating Southeast Asia: geographies of knowledge and politics of space*, 2005, pp. 203-233.

<sup>63</sup>Baker, Wienczek, *Cooperative Monitoring in the South China Sea*, 2002, pp. 42.

<sup>64</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>65</sup>Global Security, *Military – South China Sea Oil and Natural Gas*, 2011.

<sup>66</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>67</sup>Barta, Larano, *Drilling Plans Raise Stakes in Disputed Seas*, 2011.

<sup>68</sup>Wienczek, *Cooperative Monitoring in the South China Sea: satellite imagery, confidence-building measures, and the Spratly Islands disputes*, 2002, pg. 42.

<sup>69</sup>CIA World Factbook, *Country comparison: Natural Gas – Proven reserves*, 2010 estimate. See also U.S. Energy Information Administration, *U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Proved Reserves*, 2009, Released Nov. 2010.

<sup>70</sup>*Who Rules the Waves? China's Ocean Scientists Will Soon Start Exploring a Controversial Part of the Sea*, 2011.

<sup>71</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>72</sup>Walker, *Tour the South China Sea: A Visual Tour to Understanding the Conflict*, 2011, pp. 8-9.

<sup>73</sup>Kaplan, *The South China Sea is the Future of Conflict*, 2011, p. 5-6.

<sup>74</sup>Baker and Wienczek, *Cooperative Monitoring in the South China Sea*, 2002, pp. 40.

<sup>75</sup>Baker and Wienczek, *Cooperative Monitoring in the South China Sea*, 2002, pp. 40.

<sup>76</sup>Erickson and Collins, *China Aims to Triple Its Oil & Gas Production in the South China Sea over the Next 10 years*, 2011.

<sup>77</sup>Krugman, *Economics*, 2009, ch. 2.

<sup>78</sup>Krugman, *Economics*, 2009, ch. 10.

<sup>79</sup>See for example Waltz, *A Theory of International Politics*, 1978, Ch. 4.

over vulnerable commercial routes), their grand strategies may nonetheless vary greatly.<sup>80</sup> As a maritime theater for interaction, the SCS drives local Member States' grand strategies toward naval competence. Thus, to promote national security, local states focus on potential sources of threats that could arrive via the SCS. Grand strategies can vary on whether the Member State believes it best protects its interests by either a) allying with major military powers (i.e. the U.S.) that ensure collective regional security, or b) orienting their military toward either access-denial capabilities or their own power projection capabilities.<sup>81</sup> Ultimately, the dynamics SCS dictate the sources of interest, perceptions of threat, and the modes of efficient security for its resident states.<sup>82</sup> With the direct wealth potential, sea-lane robustness, and security determinants incumbent to the SCS, it naturally constitutes the core international concern for long-term Asian-Pacific peace.

### *Claims*

Due to its considerable geostrategic value, Member States have canvassed the South China Sea with several mutually incompatible claims. The motley recent history among Member States over sovereignty and access has contributed to interstate rivalry and tension. In order to understand many of the Member State positions in relation to existing international law, aspects of the UN Convention on the Law of the Sea (UNCLOS) must be reviewed.<sup>83</sup>

As a culmination of decades of diplomatic work to update obsolete international maritime laws, the UNCLOS was adopted in 1982 with 130 votes in favor, 4 against and 17 abstentions.<sup>84</sup> It defines and limits territorial sea and details the rights and responsibilities of nations who use the oceans as well as establishes guidelines for business and the management of the oceans' resources.<sup>85</sup> The UNCLOS entered into force in 1994 and includes at least two significant provisions that relate to the territorial disputes in question.<sup>86</sup> First, the UNCLOS legally introduces Exclusive Economic Zones (EEZs), within which a Member State enjoys sovereign exploitation rights over natural (living and non-living) resources.<sup>87</sup> The perimeter of an EEZ extends from land's low water line out 200 nautical miles.<sup>88</sup> Foreign states may still navigate freely and fly overhead as well as lay underwater cables and submarine pipes.<sup>89</sup> Second, the UNCLOS formalized the Continental Shelf as a natural extension of the land territory (which is limited to 12 nautical miles, Article 3 UNCLOS), subject to the Member State's control.<sup>90</sup> For legal application, the Continental Shelf can extend to the edge of the continental margin, the point at which the shelf descends to an abyssal plain on the ocean floor.<sup>91</sup> In tandem with the EEZ, the UNCLOS limits the jurisdiction of the continental margin control at least 200 and up to 350 nautical miles.<sup>92</sup> Within the Member State's continental shelf but beyond its EEZ, it may exploit only non-living natural resources.<sup>93</sup> Crucially, the UNCLOS attributes to islands their distinct EEZ and Continental shelf jurisdictions.<sup>94</sup> This is the crux of control for the claimants of the strategic islands. Both EEZ and Continental shelf are legal consequences of territorial sovereignty over land. All Member States in the South China Sea have therefore an interest to establish territorial sovereignty over the islands if they want to benefit from the EEZ and Continental shelves attached to those. Claims on territorial sovereignty are mainly based on *de facto* control and historical precedent. Ambiguity in overlapping EEZ boundaries adds to the complexity of each state's claim. While the UNCLOS contains several provisions to solve overlapping EEZs and continental shelves, these provisions are disputed and can be abrogated by individual bilateral treaties.<sup>95</sup>

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<sup>80</sup>See for example Schelling, *Arms and Influence*, 1967, Ch. 1-2.

<sup>81</sup>Global Security, *Sea Power*, 2011.

<sup>82</sup>Global Security, *Sea Power*, 2011.

<sup>83</sup>UNCLOS, 1982.

<sup>84</sup>Shaw, *International Law*, 2003. pp. 492.

<sup>85</sup>Shaw, *International Law*, 2003, pp. 492-3.

<sup>86</sup>UNCLOS Parts V, VI.

<sup>87</sup>UNCLOS V, Article 55.

<sup>88</sup>UNCLOS V, Article 57.

<sup>89</sup>UNCLOS VI, Article 79.

<sup>90</sup>UNCLOS VI, Article 76.

<sup>91</sup>UNCLOS VI, Article 76.

<sup>92</sup>UNCLOS, VI, Article 76, Sections 4-5.

<sup>93</sup>UNCLOS, VI, Articles 77,81.

<sup>94</sup>UNCLOS, VIII, Article 121.

<sup>95</sup>Consider UNCLOS V, section 74 and VI, section 83; Also see Commission on the Limits of the Continental Shelf, Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf, May 1999. For a deeper analysis of the vagueness and ambiguities of article 76, see: Prows, *Tough Love: The Dramatic Birth and Looming Demise of UNCLOS Property Law (and What to Do About It)*, 2006, pp. 241-309; Kwiatkowska, *The 200 mile exclusive economic zone in the new law of the sea*, 1989, pp. 230; See also ICJ, 1969. ICJ Reports *North Sea Continental Shelf Cases 1969*.



Figure 1. Retrieved from BBC.<sup>96</sup>

Except for Cambodia, all Member States in the South China Sea have signed and ratified the UNCLOS.<sup>97</sup> China claims nearly all of the South China Sea.<sup>98</sup> Referred to on maps as the “cow’s tongue,” China’s asserted territorial reach encompasses all of the Spratly Islands as well as the Paracel Islands.<sup>99</sup> Currently, China militarily occupies several of the islands in the Spratly archipelago and commands a *de facto* sovereignty over the Paracel Islands since 1974 (previously Vietnam).<sup>100</sup> While China invokes the EEZ and continental shelf principles of UNCLOS, the principle basis of their claims concerns territorial sovereignty and rests on history.<sup>101</sup> In 1947, China issued a location map of the main island features in the SCS and demarked them by a dotted line that served to indicate sovereignty determined by records of the Han Dynasty (110 CE) and Ming Dynasty (1403-1433 CE).<sup>102</sup> The Taiwan Republic of China makes the equivalent claims on the South China Sea as China.<sup>103</sup> Since the standing government there recognizes itself as the “Republic of China,” it is competing for sovereignty over China’s historical claim to the SCS.<sup>104</sup> Since 1955, The Taiwan Republic of China has occupied Itu Aba, the largest island among the Spratly archipelago.<sup>105</sup> Vietnam claims a significant portion of the South China Sea. Overlapping much of China’s historic assertion, Vietnam also claims all of the Spratly Islands and currently occupies twenty of them.<sup>106</sup> Additionally, Vietnam argues sovereignty over the entire Paracel archipelago, despite their ejection in 1974.<sup>107</sup> Besides these contentious archipelagos, Vietnam has claimed the Gulf of Thailand.<sup>108</sup> Between 1982 and 2006, Vietnam, Cambodia, Thailand, and Malaysia have steadily progressed in cooperation as well as resource- and boundary-

<sup>96</sup>BBC, *Singapore urges China to clarify South China Seas claim*, 2011

<sup>97</sup>*Chronological lists of ratifications of, accessions and successions to the Conventions and the related agreements*, United Nations Division for Ocean Affairs and the Law of the Sea, 2011.

<sup>98</sup>Blackwood, *China Defends Claims in South China Sea*, 2011.

<sup>99</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>100</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>101</sup>Jinming and Dexia, *The Dotted Line on the Chinese Map of the South China Sea*, 2003, pp. 287-295.

<sup>102</sup>Jinming and Dexia, *The Dotted Line on the Chinese Map of the South China Sea*, 2003, pp. 287-295.

<sup>103</sup>Hsiao, *Taiwan Pivots in the South China Sea*, 2011.

<sup>104</sup>Hsiao, *Taiwan Pivots in the South China Sea*, 2011.

<sup>105</sup>Global Security, *Itu Aba Island [Taiping Island], Spratly Islands*, 2011.

<sup>106</sup>Joyner, *The Spratly Islands Dispute in the South China Sea: Problems, Policies, and Prospects for Diplomatic Accommodation*, 1999, pp. 33-5.

<sup>107</sup>Joyner, *The Spratly Islands Dispute in the South China Sea*, 1999, pp. 37.

<sup>108</sup>Joyner, *The Spratly Islands Dispute in the South China Sea*, 1999, pp. 21.

sharing in the Gulf.<sup>109</sup> Similarly to China, Vietnam bases its claims on both the EEZ and continental shelf rules of UNCLOS and historical precedent.<sup>110</sup> Based on their historical record, it argues that it has actively ruled over both archipelagos since the early 17<sup>th</sup> century.<sup>111</sup> The Philippines claim a large southern region of the South China Sea. They currently occupy eight of the Spratly Islands, but make no claims of rule over the Paracel archipelago.<sup>112</sup> The Philippines base their claim on geographic proximity, the EEZ and continental shelf principle, and historic Filipino expeditions in 1956 and 1971.<sup>113</sup> Malaysia has specifically defined coordinates for maritime control in the line with UNCLOS. Within this boundary lies three of the Spratly Islands, upon which Malaysia has erected a hotel and developed land.<sup>114</sup> Brunei & Indonesia make no claims on the Spratly Islands, but face Chinese claims that overlap their EEZ and continental shelves that include the Natuna Gas Field and Louisa Reef.<sup>115</sup>

### *Timeline of Conflict*

The recent history of the South China Sea is marred by clashes that tempt escalation. In 1946, China declared the Spratlys as part of its Guangdong province.<sup>116</sup> A year later, the Philippines claimed some of the Spratlys as well as the Scarborough Reef.<sup>117</sup> The first military clash occurred in 1974 in the Paracels between China and Vietnam, resulting in Vietnamese expulsion and the death of several troops.<sup>118</sup> In response, South Vietnam occupied part of the Spratlys.<sup>119</sup> In 1978, the Philippines entered the fray by claiming the entire area and revising their country's map.<sup>120</sup>

The first naval skirmish involving China and Vietnam ensued in 1988 off the Spratly Islands, with Vietnam incurring over 70 casualties and losing control of six islands.<sup>121</sup> Under such tensions, China passed laws in 1991 to formally assert control over the whole South China Sea.<sup>122</sup> Organized by Indonesia, the six main claimants in the SCS agreed to resolve the disputes peacefully and refrain from unilateral actions that could increase tensions.<sup>123</sup> Two years later, China and Vietnam engaged in another skirmish near Vietnam's claimed Sin Cowe East. Under mounting criticism, China pledged not to use force and negotiate the Spratlys.<sup>124</sup> In 1995, China engaged the Philippines in a skirmish near the ill-named Mischief Reef, effectively expanding the conflict beyond a dyadic rivalry.<sup>125</sup> Over time, the Philippines has also had minor skirmishes with Vietnamese and Malaysian forces.<sup>126</sup>

In the hopes of developing long-term commercial cooperation and regional stability, claimants took the first steps in formalizing the basis of legitimate conduct in the South China Sea. Collectively represented through the Association of Southeast Asian Nations (ASEAN), claimants along with China adopted the *Declaration on the Conduct of Parties on the South China Sea* (2002).<sup>127</sup> Its principal purpose was to introduce a "framework for future talks on territorial issues and ocean space."<sup>128</sup> Specifically, it would affirm that,

"The parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign

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<sup>109</sup>Hong Thao, *Joint Development in the Gulf of Thailand*, 1999.

<sup>110</sup>National Committee for Border Affairs, Ministry of Foreign Affairs, *Historical documents on Vietnam's sovereignty over Paracel and Spratly Islands*, 2011.

<sup>111</sup>National Committee for Border Affairs, Ministry of Foreign Affairs, *Historical documents on Vietnam's sovereignty over Paracel and Spratly Islands*, 2011.

<sup>112</sup>U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>113</sup>Global Security, *Territorial Claims in the Spratly and Paracel Islands*, 2011.

<sup>114</sup>Global Security, *Territorial Claims in the Spratly and Paracel Islands*, 2011.

<sup>115</sup>Global Security, *Territorial Claims in the Spratly and Paracel Islands*, 2011.

<sup>116</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>117</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>118</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>119</sup>Reuters, Factbox: The South China Sea's disputed maritime borders, 2011.

<sup>120</sup>Reuters, Factbox: The South China Sea's disputed maritime borders, 2011.

<sup>121</sup>a.k.a the "Johnson South Reef Skirmish." U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008.

<sup>122</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>123</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>124</sup>Studeman, *Calculating China's Advances in the South China Sea: Identifying the Triggers of "Expansionism"*, 1998.

<sup>125</sup>Meyer, *Incident at Mischief Reef: Implications for the Philippines, China, and the United States*, 1998.

<sup>126</sup>Singapore Institute of International Affairs (SIIA), *Timeline: Disputes in the South China Sea*, 2011.

<sup>127</sup>Association of Southeast Asian Nations (ASEAN), *Declaration on the Conduct of Parties in the South China Sea*, 2002.

<sup>128</sup>Association of Southeast Asian Nations (ASEAN), *Declaration on the Conduct of Parties in the South China Sea*, 2002.

states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.”<sup>129</sup>

Though adopted in order to develop an environment that would promote trust and build confidence, the 2002 declaration is not a legal instrument, nor does it establish the geographic scope of its applicability.<sup>130</sup>

The region has experienced a marked uptick in tension in 2011. First in 2010, and again in 2011, the U.S. has indicated that it is pursuing a strategy based on strong regional institutions in the Asia Pacific.<sup>131</sup> Secretary of State Hilary Clinton described ASEAN as the “fulcrum of the evolving regional security architecture,” while the U.S. President and the former Secretary of defense Robert Gates have asserted that the gravity for U.S. global security concerns has shifted to the Asia Pacific.<sup>132</sup> Contrary to current Chinese interests, the U.S. has called for a multilateral solution to SCS disputes.<sup>133</sup> China’s official response in 2010 condemned the “internationalization of the South China Sea issue.”<sup>134</sup> The most recent upsurge in tension has coincided with a number of strongly worded statements from Beijing, including warning their other disputants to stop any mineral exploration in the area.<sup>135</sup>

### ***Potential Flashpoint***

Many policy-makers, military, and scholars alike currently share deep concerns over the South China Sea disputes for at least five reasons.

The first reason is observational: rhetoric and actions alike have increased meaningfully over the last year. Recent incidents include Chinese naval patrol activity following harassment claims by Vietnam and the Philippines, equipment destruction and garrison building and high publicized live naval fire drills off the QuangNom province held by Vietnam.<sup>136</sup> The increase in incidences seems to imply more exploratory and development actions by the three countries.

The second reason for concern is fast-rising demand for energy assets in Asia. The U.S. Energy Information Administration has predicted that oil consumption alone will double by 2030.<sup>137</sup> With such dramatic pressures to secure vital production inputs, the relative value of prospective asset-rich islands redoubles. Representing a direct source of wealth via state revenue and production inputs, states generally view raw energy assets as a zero-sum acquisition issue and consequently increase pressures contra negotiation.<sup>138</sup> To offset shifting the precariousness of world energy prices, nations find great value in securing ever more domestic assets.

The third reason for concern is the nimble shift in relative military and economic capabilities among the relevant Member States and regional organizations.<sup>139</sup> On one hand, the U.S. has long projected naval primacy in the Asia Pacific and has committed to a long-term presence.<sup>140</sup> On the other hand, China is undergoing rapid material growth and pursues an ambitious and uncontested influence in the South China Sea.<sup>141</sup> China's GDP has increased from 550 billion in 1995 to 5 trillion in 2009, sustained by an average GDP growth rate of 9.1%.<sup>142</sup> With this growth, China has increased its military budget approximately 10% annually.<sup>143</sup> Foreign analysts argue that such military build-up suggests a power-projection, implied by their acquisition of a Ukrainian aircraft carrier and subsequent development of a second carrier.<sup>144</sup> Such power-projection capabilities are not only highly costly to develop and

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<sup>129</sup> Association of Southeast Asian Nations (ASEAN), Declaration on the Conduct of Parties in the South China Sea, 2002.

<sup>130</sup> Hong Thao, *The 2002 Declaration on the Conduct of Parties in the South China Sea*, 2002, pp. 279-85.

<sup>131</sup> Clinton, *Remarks at Press Availability*, 2010.

<sup>132</sup> Clinton, *Remarks on Principles for Prosperity in the Asia Pacific*, 2011.

<sup>133</sup> Clinton, *Remarks on Principles for Prosperity in the Asia Pacific*, 2011.

<sup>134</sup> Hille, *China blasts Clinton's maritime venture*, 2011.

<sup>135</sup> Q&A: *South China Sea dispute*, 2011.

<sup>136</sup> For example, see Ana, *China Builds more Spratly Outposts*, 2011, and Vietnam *beefs up military garrisons in Spratlys*, 2011. Harvey, *Vietnam in live fire drill amid South China Sea row*, 2011.

<sup>137</sup> U.S. Energy Information Administration, *South China Sea Analysis Brief*, 2008

<sup>138</sup> Gilpin, *War and Change in World Politics*, 1981, Ch. 1, 4.

<sup>139</sup> Gilpin, *War and Change in World Politics*, 1981, Ch. 4

<sup>140</sup> Pellerin, Cheryl, Gates: U.S. Committed to Robust Presence in East Asia, U.S. Department of Defense, June 21, 2011.

<sup>141</sup> World Bank World Development Indicators, Fetched from Google public data explorer, July 28, 2011.

<sup>142</sup> World Bank World Development Indicators, Fetched from Google public data explorer, July 28, 2011.

<sup>143</sup> Stockholm International Peace Research Institute (SIPRI), *SIPRI Military Expenditures Database*, 2011.

<sup>144</sup> *China's Aircraft Carrier 'Starts Sea Trials'*, 2011.



maintain, they also tend to increase the anxieties of other Member States where revisionist ambitions are on the rise.<sup>145</sup> While Vietnam and the Philippines both enjoy healthy economic growth, the asymmetric shift in capabilities and their increasing dependence on its sea-lanes invoke incentives to act now instead of later.

The fourth reason is that existing military and security commitments between claimants and the U.S. threaten to conflagrate belligerence and expand the scope of military escalation.<sup>146</sup> Over the last decade, the U.S. has developed military coordination relationships with several ASEAN members, perceived by some as a feature of some containment strategy toward China.<sup>147</sup> Moreover, U.S. continues to uphold its commitment to protect The Taiwan Republic of China from attack or invasion, despite the Chinese condemnation of interfering with a “unified China.”<sup>148</sup> Combined with the burgeoning strategic cooperation between the U.S., ASEAN and its constitutive countries, the SCS represents a plausible theater for great power competition with intractable commitments.

The fifth reason is that players involved perceive a gap between the declared intentions of other states and their actual behavior. For example, in 2008 digital imagery confirmed the construction of a secret Chinese nuclear naval base at Hainan Island.<sup>149</sup> Additionally, this year the Philippines has accused China of building up its military presence in the Spratlys. This accusation along with their unverified claims of sabotage of two Vietnamese exploration operations has led to large anti-Chinese protests on the streets of Hanoi and Ho Chi Minh City. Vietnam has not sought to rein in the anti-Chinese protests. Foreign nations rightly pay great attention to rising nationalist fervor that recognizes them as a threat. The ensuing crisis of confidence increases mutual uncertainty and decreases trust; such frustrating environments can pressure players toward self-help through balancing behavior in the form of alliances and military build-ups.<sup>150</sup>

### ***Conclusion: Multilateral Prospects for the South China Sea***

At heart, the conflict revolves around questions of resource distribution, sovereignty, and even national prestige. Since a dramatic asymmetry of capabilities among the disputants bears on the context for potential bilateral management, many Member States and ASEAN seek multilateral routes. ASEAN and the U.S. have committed to increasing institutionalization of political and economic relationships.<sup>151</sup>

Delegates of the Security Council can explore this topic in a number of ways. First, delegates may consider whether the SC is the right forum to manage the tensions and escalation of the SCS. Under Chapter VI of the UN Charter, “The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.”<sup>152</sup> While the mandate to address the topic appears viable, delegates may ask what strategies, expertise, and authority the SC may employ to manage peace and security in the SCS.

Additionally, delegates may draw from the *Guidelines on the Implementation of the DoC of Parties of South China Sea* and develop the framework and next steps toward implementation/enhancement. The content of such a framework may involve confidence- and security-building possibilities; thus, while actual territorial disputes play out in diplomatic circles, Member States - and the international economy – can be protected from incidents and escalation derived from miscalculation or misperception. Such measures may include disclosures of troop exercises, base-building, information on military outlays, exploration/exploitation equipment, and perhaps relevant strategic and tactical doctrines.<sup>153</sup> Further measures may include personnel exchanges in the form of observers, liaisons. Additionally, in order to offset misperception from foreign civilian infractions (say, fishing crews cutting cable lines), Member States could perhaps engender more scrutiny over criminal enforcement over sea activities. The most ambitious direction the delegates may pursue is in conciliation and arbitration of the territorial disputes themselves. Mechanisms for settlements of dispute exist and may be harnessed toward arbitration.

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<sup>145</sup>See for example: Horowitz, *The Diffusion of Military Power*, 2011, pp 65-90.

<sup>146</sup>Limaye, *United States-ASEAN Relations on ASEAN's Fortieth Anniversary: A Glass Half Full*, 2007, pp. 447-464.

<sup>147</sup>Limaye, *United States-ASEAN Relations on ASEAN's Fortieth Anniversary: A Glass Half Full*, 2007, pp. 447-464.

<sup>148</sup>Taiwan Relations Act, 1979.

<sup>149</sup>IHS Janes Defense and Security Intelligence Analysis, *Secret Sanya – China's new nuclear naval base revealed*, 2008, pp. 4.

<sup>150</sup>Glaser, *Rational Theory of International Politics: Logic of Competition and Cooperation*, 2010, Ch. 1.

<sup>151</sup>Zhu, *US-China relations in the 21st century: power transition and peace*, 2006. Ch. 7.

<sup>152</sup>UN Charter VI section 33; see also, V section 24.

<sup>153</sup>Some of these are mentioned in the Joint Statement of ASEAN-China Commemorative Summit, 2006.

## Annotated Bibliography

### *I. Managing Peace and Security in the South China Sea*

Association of Southeast Asian Nations (ASEAN). (2002). *Declaration on the Conduct of Parties in the South China Sea*. Retrieved September 23, 2011 from <http://www.asean.org/13163.htm>

*In 2002, ASEAN Member States pledged to resolve their sovereignty disputes in a peaceful manner, without resorting to force and through direct negotiations among disputants. This was codified in the Declaration on the Conduct of Parties in the South China Sea. ASEAN set out to employ self-restraint with issues that could complicate or escalate disputes, including those involving the Spratly and Paracel Islands. This milestone document highlights Member States' pledge to develop particular confidence-building measures, information-sharing, and engage in cooperative activity. This document has formally buttressed a somewhat unified stance relating to negotiations with China. Moreover, this serves as a good example of the orientation and prospective role ASEAN envisions for itself as a regional organization in managing the South China Sea dispute.*

Baker, J., D. Wienczek. (2002). *Cooperative Monitoring in the South China Sea*. Westport, CT.: Greenwood Publishing Group

*As a RAND policy analyst and an international security risk assessor for corporate ventures respectively, these authors have gathered contributors to assess the prospects of cooperative monitoring of the Spratly Islands. This highly informative book analyzes the emerging generation of civilian and commercial observation/surveillance technology can be used to develop confidence-building relations by providing transparency. When determining possible management approaches to the South China Sea disputes, sources such as this can illuminate technological factors to influence regional security.*

Global Security. (2011) *Itu Aba Island [Taiping Island], Spratly Islands*. Retrieved September 22, 2011 from <http://www.globalsecurity.org/military/world/taiwan/taiping.htm>.

*Headed up by John Pike, former national security analyst and think tank, GlobalSecurity.org serves as a leading online source for military information. Launched in 2000, GlobalSecurity.org aggregates a vast array of background information and developing news stories in the fields of defense, intel, WMD, and homeland security. For the current topic, this resource provides robust data on military choices amongst the claimants including arms acquisitions, military drills, strategic analysis and more. This is a great first stop on any specific military or technical issue.*

Joyner, C. (1999) *The Spratly Islands Dispute in the South China Sea: Problems, Policies, and Prospects for Diplomatic Accommodation*. Retrieved September 23, 2011 from

<http://www.southchinasea.org/docs/Joyner.%20Spratly%20Islands%20Dispute.pdf>

*The recently passed Joyner acted as professor of government and Foreign Service at Georgetown University. Further, Joyner co-founded and directed the university's Institute for International Law and Politics. This article will go beyond the contents of this background guide in detailing the regional obstacles in dispute resolution as well as possible approaches to management solutions. Additionally, it provides recommendations on long-term agreements that could secure sustained peace and security in the South China Sea.*

Kaplan, R (2011). *The South China Sea is the Future of Conflict*. Retrieved September 22, 2011 from

[http://www.foreignpolicy.com/articles/2011/08/15/the\\_south\\_china\\_sea\\_is\\_the\\_future\\_of\\_conflict](http://www.foreignpolicy.com/articles/2011/08/15/the_south_china_sea_is_the_future_of_conflict)

*Robert Kaplan is a senior fellow at the Center for a New American Security as well a member of the Defense Policy Board, appointed by the current U.S. Secretary of Defense. His works are prolific and sometimes invite controversy by underscoring historical and/or cultural tensions with respect to international affairs. This particular article has generated a good deal of buzz and highlights the plausible nature of the future of conflict in the South China Sea. Originally published in Foreign Affairs, the article subtly contrasts the usual work that comes from the realist paradigm of international relations.*

Ross, R. (2009). "China's Naval Nationalism: Sources, Prospects, and the U.S. Response," *International Security*, 34:2, 2009, pp. 46-81.

*Ross co-directs the Belfort Center for Science and International Affairs at Harvard University. This recent article has sparked some academic controversy for incorporating nationalism into a determinant for grand strategy choice and consequently has garnered attention from multiple fields. Delegates will benefit from this article and others like it due to their illumination on grand strategy considerations, implications of nationalist pressures in sculpting policy*

outcomes. It will be useful for delegates to accrue information from recent analyses such as Ross' article since technology and "facts on the ground" have continued to change.

Shaw, M. (2008). *International Law*. Cambridge, UK: Cambridge University Press  
Shaw serves as the Sir Robert Jennings Professor of International law at the University of Leicester and has written prolifically in international law and human rights. His textbook is a staple for international legal scholars and considered to offer a clear and authoritative introduction to the field. Delegates may choose Shaw's 6<sup>th</sup> edition (2008) for clarity on many international legal issues pertaining to the topic. Additionally, this book provides extremely useful references for those needing to research deeper into any particular issue relating to this issue including sovereignty, territoriality, freedom of the seas, and exploitation specifics.

Singapore Institute of International Affairs. (2011) *Timeline: Disputes in the South China Sea*. Retrieved September 20, 2011 from <http://siaonline.org/?q=research/timeline-disputes-south-china-sea>  
Founded in 1961 and Singapore's most elder think tank, the Singapore Institute of International Affairs, researches and analyzes germane regional and international issues. The organization offers a useful timeline of conflicts among the claimants in the South China Sea, beyond that provided in this guide. Often, they host informative research papers regarding the dispute and up-to-date accounts on resource discoveries and acquisitions. Delegates will find very fruitful analyses from think tanks like SIIA to inform technical matters relating to the topic.

United Nations.(1982). UN Convention on the Law of the Sea (UNCLOS). Retrieved September 22, 2011 from [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm)  
As perhaps the most relevant international agreement relating to the legal status of the sea and oceans, delegates must be familiar with its contents. UNCLOS defines the rights and responsibilities of Member States pertaining to their use of the world's oceans by establishing exploration and exploitation guidelines for marine resources. Since most of the claimants to the South China Sea refer to the UNCLOS to legitimate control, the agreement's specifics may have far reaching implications in the course of construction delegate work. UNCLOS legally stipulates many of the details regarding territorial waters, exclusive economic zones, contiguous shelf, and the status of islands.

U.S. Energy Information Administration.(2008). *South China Sea Analysis Brief*. Retrieved September 22, 2011 from <http://205.254.135.24/countries/regions-topics.cfm?fips=SCS>  
The U.S. Energy Information Administration (EIA) is the statistical and analytical agency within the U.S. Department of Energy. By collecting, analyzing, and disseminating independent energy statistical data, the EIA aims to promote efficient policy-making and efficient markets. By law, its data and analyses are independent of approval by the US government. Due to the immense importance of the energy resources in the South China Sea, the EIA has provided a nice overview of the conflict with numerous links to pertinent information.

## II. Enhancing Efficiency and Credibility of UN Sanctions

*"Whereas every amicable means of settling differences might find application in every kind of difference, not every compulsive means is applicable in every difference"*<sup>154</sup> Lassa Oppenheim

### **Introduction – Origin of Sanctions**

Application of coercive strategies in international relations was developed by the end of the nineteenth century, as an alternative to classical resort to wars – or threat of war - as a means to settle inter-state disputes.<sup>155</sup> Progressively, non-military coercive measures were recognized as a valuable tool of foreign policy, both as deterrent from waging war and compellent to peaceful dispute resolutions.<sup>156</sup> Sanctions became one of the ways of applying coercion that are consistent with the continuance of peaceful relations between states – even harsh ones are not considered as acts of war.<sup>157</sup> Sanctions assumed a central role in the collective security system during the League of Nations as a tool of coercion to be used against states that had violated the Covenant of the League of Nations by engaging in an act of

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<sup>154</sup> Oppenheim, L. *International Law: A Treatise*, 1921, p. 40.

<sup>155</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 47.

<sup>156</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 48.

<sup>157</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 48.

armed aggression.<sup>158</sup> There were four different kinds of coercive means, namely retorsion (political measures), reprisals (legal actions), pacific blockade (reprisal and/or intervention), and interference (dictatorial interference of third State – modern arbitration) – all those measures can have an economic impact.<sup>159</sup> Sanctions must be lifted as soon as the difference is settled.<sup>160</sup>

### ***Sanctions and the United Nations***

In order to save future generations from future wars and to not repeat the failure of preventing conflicts of the scale of World War II, the Security Council can undertake actions under Chapter VII with respect to determined threats to peace, breaches of peace, and acts of aggression, and decide “what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations (UN) to apply such measures.”<sup>161</sup> Once the Security Council concludes that a threat to international peace and security exists and decides to impose sanctions, all Member States are under legal obligation to implement, as well as to comply with them.<sup>162</sup> However, the Security Council generally does not handle the minutiae of sanctions regimes, but delegates it to individual sanctions committees that are created specifically for that reason.<sup>163</sup> Even though sanctions were developed and used by the League of Nations, the UN Security Council did not apply them extensively until the post-Cold War era.

In general, there are two sources of sanctions measures, namely non-recognition and measures flowing from Article 41.<sup>164</sup> Non-recognition is a consequence of acts breaching international laws and regulations, and can take the form of non-cognizance of the laws or acts of the sanctioned entity in municipal courts, non-admission to, or suspension from international organizations, or symbolic acts (such as exclusion from participation from sporting events, scientific and technical cooperation and cultural exchanges).<sup>165</sup> Measures flowing from Article 41 affect various areas, including diplomatic relations - severance or reduction of diplomatic, consular and trade relations, or closure of offices, including information and tourist offices abroad; and movement of persons - restriction of entry or transit through Member States’ territories of persons. Economic and financial measures include the prohibition of imports from the sanctioned States; the prohibition of exports to the sanctioned State (comprehensive embargo, selective embargos); restrictions on movements of funds such as freezing of funds, financial assets and economic resources, and prohibition of funds for investment. Further measures include severance of means of communications; denial of permission to aircraft destined to or from the target State or registered, owned or controlled by targeted State; and finally penal measures for persons who evade sanctions, criminalization of financing, planning, preparation or perpetration of terrorist acts.<sup>166</sup>

The list of targeted units includes, but is not limited to: the Government of the sanctioned State; any commercial, industrial or public utility undertaking in the territory of the sanctioned State; any person or body for the purpose of any business carried on or operated from the territory; entities abroad owned or controlled by persons in the territory; and select lists of persons and entities targeted by financial sanctions.<sup>167</sup>

The Security Council generally recognizes a number of exemptions from possible targets of sanctions. The list of humanitarian and other exceptions consists of: supplies intended strictly for medical purposes, foodstuff in special humanitarian circumstances, payment exclusively for pensions, payments intended towards excepted products, materials and supplies for essential civilian needs, petroleum or petroleum products, flights for medical emergencies, air flights for Hajj pilgrimage or other religious obligations, nationals of implementing states in cases where such

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<sup>158</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 53.

<sup>159</sup> Oppenheim, L., *International Law: A Treatise*, 1921, p. 40.

<sup>160</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 53.

<sup>161</sup> United Nations, *Charter of the United Nations*, 1945, Art. 41 (Art. 39-40).

<sup>162</sup> United Nations, *Charter of the United Nations*, 1945, Art. 25, Art. 39 & Art. 41 & Art. 2.5.

<sup>163</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 81.

<sup>164</sup> Gowlland-Debbas, V., Tehindrazanarivelo, D.L., *National Implementation of United Nations Sanctions: A Comparative Study*, 2005, pp. 27.

<sup>165</sup> Gowlland-Debbas, V., Tehindrazanarivelo, D.L., *National Implementation of United Nations Sanctions: A Comparative Study*, 2005, p. 27.

<sup>166</sup> Gowlland-Debbas, V., Tehindrazanarivelo, D.L., *National Implementation of United Nations Sanctions: A Comparative Study*, 2005, pp. 27-30.

<sup>167</sup> Gowlland-Debbas, V., Tehindrazanarivelo, D.L., *National Implementation of United Nations Sanctions: A Comparative Study*, 2005, p. 30.

persons may be targeted by restrictions on entry or transit through their territories, and telecommunications, postal services, legal services or services for humanitarian purposes.<sup>168</sup>

### ***Unintended Consequences of UN Sanctions***

Two provocative issues weakened the sanctions provisions under the League of Nations, namely, who would determine whether each resort to war was in violation of the Covenant, and if states could genuinely be obliged to apply sanctions.<sup>169</sup> Drawing from the experience of the League of Nations, the drafters of the UN Charter deemed it necessary to inscribe a means of accountability of the Security Council for the impact of its decision on states. Article 50 provides for a right for third-party states to consult the Security Council if they find themselves confronted with economic problems arising from the application of collective coercive measures, including sanctions.<sup>170</sup> Examples of such consultations and petitions are numerous; however, the best known case is the sanctions regime imposed on Iraq after its invasion of Kuwait. This sanction regime ultimately led 21 states to address the Council on this basis.<sup>171</sup> This being the first time in UN history where such a large number of states had come forward with a request under Article 50 UN Charter, the case clearly points to the severe ramifications on third-party states that are caused by economic disturbance stemming from applying sanctions, even if imposed on just one state.<sup>172</sup>

However, unintended consequences are not limited to third-party states. A great number of states have expressed concerns on the possible adverse impact of sanctions on the most vulnerable segments of the populations within the sanctioned state itself.<sup>173</sup> While third-party states can seek consultation and assistance in accordance with Article 50; such measures are not available to individuals of the affected state to alleviate the collateral damage of sanction regimes.<sup>174</sup> Criticism concerning the effect of economic sanctions has also come from NGOs and humanitarian organizations, and even from within the UN System, e.g. from the Committee on Economic, Social and Cultural Rights.<sup>175</sup> In addition to directly affecting livelihood of the population of a targeted state, as well economies of third-party states, sanctions have unintentionally contributed to the emergence of black markets, creating huge profit-making opportunities for ruling elites and their collaborators.<sup>176</sup>

### ***Reform processes and the Security Council Working Group on General Issues on Sanctions***

In response to these concerns, the Security Council revisited the application and implementation of mandatory sanctions targeted at specific actors, and displayed greater consideration for humanitarian exceptions embodied in its resolutions.<sup>177</sup> Resolutions of the Security Council of the past decade are progressively establishing new sanctions or modifying existing sanctions in such a way as to include measures with minimal or no human impact on the civilian population.<sup>178</sup> The value of smart sanctions rests in their sharp focus on the targeted leadership or group, their assets and liberties, with little, if any, negative impact on civilian populations and third states.<sup>179</sup> This shift was part of a larger set of reform processes regarding sanctions, some of which were initiated independently of the UN whereas others were carried out under its auspices.

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<sup>168</sup> Gowlland-Debbas, V., Tehindranarivelo, D.L., *National Implementation of United Nations Sanctions: A Comparative Study*, 2005, p. 30.

<sup>169</sup> Farrall, J.M., *United Nations Sanctions and the Rule of Law*, 2007, p. 53.

<sup>170</sup> United Nations, *Charter of the United Nations*, 1945, Article 50.

<sup>171</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and travel Sanctions – A Brief Overview of Security Council Applied Sanctions*, 2000.

<sup>172</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and travel Sanctions – A Brief Overview of Security Council Applied Sanctions*, 2000.

<sup>173</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and travel Sanctions – A Brief Overview of Security Council Applied Sanctions*, 2000.

<sup>174</sup> United Nations, *Repertoire of the practice of the Security Council: Supplement 1989-1992*, 2003, p. 929.

<sup>175</sup> Reinisch, A., *Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions*, 2001.

<sup>176</sup> Reinisch, A., *Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions*, 2001.

<sup>177</sup> United Nations. *UN Security Council Sanctions Committees: An Overview*.

<sup>178</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and travel Sanctions – A Brief Overview of Security Council Applied Sanctions*, 2000.

<sup>179</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and travel Sanctions - The Experience of the United Nations in Administering Armed Embargoes and Travel Sanction*, 2000.



*Interlaken Process.* Facilitated by the Swiss Government since 1997, the Interlaken Process was the first comprehensive attempt to examine the feasibility of targeted financial sanctions by both sanctions practitioners and experts.<sup>180</sup> The agenda focused on exploration of the potential effectiveness of targeted financial sanctions, such as freezing financial assets or blockage of financial transactions of targeted entities or individuals.<sup>181</sup> To consolidate the contributions of the Interlaken Process into practical tools refining the use of financial sanctions, the Watson Institute's Targeted Financial Sanctions Project developed a manual entitled *Targeted Financial Sanctions: A Manual for Design and Implementation*. This manual applies to the Security Council and national institutions burdened with the design and implementation of targeted financial sanctions.<sup>182</sup> The Manual provides suggestions for wording of resolutions imposing targeted financial sanctions, and identified "best practices" for the implementation of those measures at the national level, as agreed upon during the conference in Switzerland.<sup>183</sup>

*Bonn-Berlin Process.* In 2000, the German Foreign Office called for a follow-up process to the Interlaken process in cooperation with the UN Secretariat and Bonn International Center for Conversion. This process, also known as Bonn-Berlin Process, examined the use of travel bans, aviation sanctions, and arms embargoes by the UN.<sup>184</sup> These measures, often used in combination with other sanctions, can also be designed to target desired groups, economic sectors or individuals.<sup>185</sup> The process was twofold: firstly, analyzing the deficiencies of the concerned sanctions, focusing on weaknesses at the UN-level and practical problems with effective implementation, and secondly, discussing a broad range of proposals aiming at increasing effectiveness of arms embargoes, as well as travel and aviation bans.<sup>186</sup> A list of technical proposals was to be further elaborated on by an Expert Working Group.<sup>187</sup>

Four Expert Working Groups were formed: the first one focused on developing model resolutions and proposals for the national implementation of travel and aviation sanctions; the second concentrated on how to make arms embargoes more effective 'on the ground'; the third group developed model texts for Security Council resolutions on arms embargoes; and the fourth proposed ways to improve monitoring and enforcement of arms embargoes at the UN level.<sup>188</sup> All four Expert Working Groups met in 2000 to discuss the numerous drafts produced.<sup>189</sup> Drafts of the reports from the Expert Working Groups were presented and discussed during the final expert seminar in December 2000, which aimed at analyzing and perfecting them.<sup>190</sup> The Berlin seminar also placed the observations and proposal of the Expert Working Groups in the general debate on sanctions, with a special focus on smart sanctions.<sup>191</sup>

*Kimberley Process.* In May 2000, diamond-producing States assembled in Kimberley, South Africa, in order to deliberate the ways in which to stop the trade in 'conflict diamonds,' so as to halt diamond-trade profits from being used for financing violence.<sup>192</sup> In December 2000, the UN General Assembly adopted a landmark resolution A/RES/55/56 supporting the creation of an international certification scheme for rough diamonds.<sup>193</sup> This resolution,

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<sup>180</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and Travel Sanctions - The Experience of the United Nations in Administering Armed Embargoes and Travel Sanction*, 2000.

<sup>181</sup> United Nations Sanctions Secretariat. *Smart Sanctions, The Next Step: Arms Embargoes and Travel Sanctions - The Experience of the United Nations in Administering Armed Embargoes and Travel Sanction*, 2000.

<sup>182</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Interlaken Process*. Watson Institute for International Studies.

<sup>183</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Interlaken Process*. Watson Institute for International Studies.

<sup>184</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Bonn-Berlin Process*. Watson Institute for International Studies.

<sup>185</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Bonn-Berlin Process*. Watson Institute for International Studies.

<sup>186</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Bonn-Berlin Process*. Watson Institute for International Studies.

<sup>187</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Bonn-Berlin Process*. Watson Institute for International Studies.

<sup>188</sup> Interactive Sanctions Digest – Targeted Sanctions Project. *Summary of the Bonn-Berlin Process*. Watson Institute for International Studies.

<sup>189</sup> Brzoska, M. (Eds.), *Design and Implementation of Arms Embargos and Travel and Aviation Related Bans - Results of the Bonn-Berlin Process*. 2001, p. 11.

<sup>190</sup> Brzoska, M. (Eds.), *Design and Implementation of Arms Embargos and Travel and Aviation Related Bans - Results of the Bonn-Berlin Process*. 2001, p. 12.

<sup>191</sup> Brzoska, M. (Eds.), *Design and Implementation of Arms Embargos and Travel and Aviation Related Bans - Results of the Bonn-Berlin Process*. 2001, p. 12.

<sup>192</sup> Kimberly Process. *Background*.

<sup>193</sup> United Nations General Assembly, A/RES/55/56, 2000.

which came to be known as the Kimberley Process Certification Scheme, sets out the requirements for controlling rough diamond production and trade.<sup>194</sup> The KPCS entered into force in 2003.<sup>195</sup> Under its regulations, the participating states must put in place national legislation and institutions dealing with export, import and internal controls of diamonds, commit to transparency, and the exchange of statistical data.<sup>196</sup> In 2006, a three-year review confirmed effectiveness of the Kimberly Process, and recommended a number of actions to further strengthen the system, specifically in areas such as monitoring of implementation and strengthening internal controls in participating countries, as well as greater transparency in the gathering of statistical data.<sup>197</sup>

*Security Council Informal Working Group on General Issues of Sanctions.* In 2000, the Security Council established a Working Group on general issues of sanctions.<sup>198</sup> It was charged with developing a set of general recommendations on improving the effectiveness of the UN sanctions.<sup>199</sup> The Working Group involved interested Member States as well as international, regional, intergovernmental and other relevant organizations, and academia in a year-long, open and informal dialogue. It addressed issues such as: improving cooperation between sanctions committees, monitoring bodies, and regional organizations; determination on duration of sanctions and the process of lifting them; more appropriate assessment of unintended consequences on population and neighboring states; national implementation of sanctions and enforcement of targeted sanctions; delisting procedures and legal consequences of both listing and delisting; application of secondary sanctions against states violating sanctions; and completing and improving archives for the reference purposes.<sup>200</sup> The Working Group submitted its final report containing a large number of recommendations to the Security Council in 2006 (S/2006/997).

*Stockholm Process.* Initiated by the Swedish Government as a follow-up to the Interlaken and Bonn-Berlin Process in 2001, the Stockholm Process dealt with the conditional effectiveness of precisely targeted sanctions. Sanctions are implemented through a multilevel chain of actions and decision-making involving the Security Council and its Sanctions Committees, the Member States and their administrative agencies, as well as inter-governmental organizations, and non-governmental organizations.<sup>201</sup> Three Working Groups analyzed relevant matters, and recommended that the UN Security Council should design sanctions resolutions with implementation in mind; maintain international support for the sanctions regime; monitor, follow up and improve the measures of sanctions; strengthen the sanctions work of the UN Secretariat; cooperate with the UN Counter-Terrorism Committee; provide enhanced sanction capacity-building and training programs and model law; consider differential implementation capacities; maintain accuracy in sanction targeting, and report on the implementations.<sup>202</sup> The final report of the Stockholm process was submitted to the Security Council in 2003.

### ***Judicial Review of UN Sanctions***

The existing judicial and quasi-judicial mechanisms (International Court of Justice, as well as regional or domestic courts) are largely unavailable as a matter of current principles of international law and the status held by the Security Council. However, building on momentum of intensive revision and reinvention of sanctions, a UN working paper of the Sub-commission on the Promotion and Protection of Human Rights urged that the "full array of legal remedies should be available for victims of sanctions regimes that are at any point in violation of international law," mentioning, in particular, national courts, UN or regional human rights bodies, and the International Court of Justice as potential fora for such claims.<sup>203</sup> As a consequence, the Security Council adopted resolution 1730 (2006) by which it requested the Secretary-General to establish a Sanctions Committee within the Secretariat (Security Council Subsidiary Organs Branch), that would manage receiving and preliminary reviewing of de-listing requests.<sup>204</sup> It was

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<sup>194</sup> United Nations General Assembly, *A/RES/55/56*, 2000.

<sup>195</sup> Kimberly Process. *Background*.

<sup>196</sup> Kimberly Process. *Background*.

<sup>197</sup> Kimberly Process. *Background*.

<sup>198</sup> United Nations. *Security Council, Note by the President of the Security Council*, S/2000/319, 2000.

<sup>199</sup> United Nations. *Security Council - Security Council Informal Working Group on General Issues of Sanctions*.

<sup>200</sup> United Nations. *Security Council - Security Council Informal Working Group on General Issues of Sanctions*.

<sup>201</sup> Wallensteen, P., Staibano, C., Eriksson, M. (Eds.), *Making Targeted Sanctions Effective – Guidelines for the Implementation of UN Policy Options*. Uppsala University, 2003.

<sup>202</sup> Wallensteen, P., Staibano, C., Eriksson, M. (Eds.), *Making Targeted Sanctions Effective – Guidelines for the Implementation of UN Policy Options*. Uppsala University, 2003.

<sup>203</sup> Sub-Commission on the Promotion and Protection of Human Rights, *The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights*, UN Doc. E/CN.4/Sub.2/2000/33, para. 6.

<sup>55</sup> United Nations, *UN Security Council Sanctions Committees: An Overview*.

to further ensure that “fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions.”<sup>205</sup>

Despite existing delisting procedures, the European Court of Justice (ECJ) annulled the EU freezing of assets imposed on Yassin Al Kadi and Al Barakaat International Foundation pursuant to UN Security Council Resolution 1267 (1999).<sup>206</sup> In the *Kadi*-judgment of December 3, 2009, the ECJ held that the delisting procedures available to individuals did not meet the standard of the individual right to judicial review. The right to judicial review is part of the EC’s (now: EU’s) core fundamental rights, and therefore prevails over any international law obligations, including UN Security Council Resolutions and the UN Charter.<sup>207</sup> The ECJ ruled that the Community is fully engaged in the fight against terrorism, however such involvement “cannot be used as a justification for completely abrogating European constitutional law values as guaranteed within the Community and its Member States.”<sup>208</sup> As a consequence of the *Kadi*-judgment, the EU cannot comply with individually targeted sanctions unless proper judicial review is granted to the affected individuals. This seriously impacts the efficiency of UN sanctions regimes.

The Security Council took another significant step in this regard by establishing the Office of the Ombudsperson (*S/Res/1904 (2009)*). The Ombudsperson is mandated to gather information and to interact with the petitioners, relevant states and organizations with regard to the request and is charged with producing and presenting a comprehensive report to the Sanctions Committee, which will lay out the main arguments concerning the specific delisting request based on an analysis of all available information and observations.<sup>209</sup>

### **Case Study**

Out of the list of UN sanction regimes, the one placed on Iraq in 1990 pursuant to its invasion of Kuwait is worth reviewing not only due to its length, but also due to the multiplicity and extend of the unintended consequences.<sup>210</sup> Iraq had caused an unequivocal international outrage by invading Kuwait and blatantly violating its sovereignty of Kuwait by contesting the borders set at the fall of the Ottoman Empire and attempting to annex it.<sup>211</sup> The UN Security Council responded with imposition of severe economic sanctions in its Resolution 661.<sup>212</sup> The sanctions consisted of a ban on imports of all commodities and products from Iraq, ban on exports and trans-shipment of any commodities or products – including a ban on dealings by nationals or their flag vessels, ban on sale or supply on any commodity or products short of supplies intended strictly for medical purposes, ban on provision of any funds, or other financial or economic resources short of medical, humanitarian circumstances, or foodstuffs, as well as freeze on any licenses between Iraq and any state or non-state entity.<sup>213</sup> Since these measures did not bring the expected results, the Security Council strengthened its stance on the issue by adopting resolution 665, in which it called for the use of force, if necessary, to end Iraqi occupation of Kuwait.<sup>214</sup> Once this measure proved unsuccessful, the Council set a deadline of January 15, 1991, for the withdrawal of Iraqi forces from Kuwait, and authorizing the use of all necessary means for their removal should they not meet the requirements.<sup>215</sup> By August 1991, the impact of the imposed sanctions on the civilian population was massive, which resulted in allowing for limited oil sales that would bring in revenues for covering the costs of reparations, the UN emergency presence, and the humanitarian aid it brought.<sup>216</sup> This solution however had been rejected by the Iraqi government due to a general rejection of the sanctions regime, as well as the claim of the violation of their sovereignty, and inadequacy of the proposed financial arrangement.<sup>217</sup>

The dire situation and stubbornness on both sides of the table continued for nearly four years, with devastating consequences on the Iraqi population.<sup>218</sup> Both parties finally reached compromise in the form of Resolution 986 that

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<sup>205</sup> United Nations, *UN Security Council Sanctions Committees: An Overview*.

<sup>206</sup> Brisard, J.C., *The European Court of Justice Challenging the UN terrorism sanctions regime: A Legal Perspective*, 2008.

<sup>207</sup> Lavranos, N., *Judicial Review of UN Sanctions by the European Court of Justice*, 2009.

<sup>208</sup> Lavranos, N., *Judicial Review of UN Sanctions by the European Court of Justice*, 2009.

<sup>209</sup> United Nations, *Office of the Ombudsperson of the Security Council's 1267 Committee*, 2009.

<sup>210</sup> Lee, J. *Iraq Sanctions – Case Number 390*.

<sup>211</sup> Lee, J. *Iraq Sanctions – Case Number 390*.

<sup>212</sup> United Nations Security Council, *S/RES/0661*, 1990.

<sup>213</sup> United Nations Security Council, *S/RES/661*, Art.3-5, 1990.

<sup>214</sup> United Nations Security Council, *S/RES/665*, 1990.

<sup>215</sup> United Nations Security Council, *S/RES/678*, 1990.

<sup>216</sup> Wallensteen, P., Staibano, C. Eriksson, M., *The 2004 Roundtable on UN Sanctions Against Iraq: lesson Learned*, 2005.

<sup>217</sup> Wallensteen, P., Staibano, C. Eriksson, M., *The 2004 Roundtable on UN Sanctions Against Iraq: lesson Learned*, 2005.

<sup>218</sup> Wallensteen, P., Staibano, C. Eriksson, M., *The 2004 Roundtable on UN Sanctions Against Iraq: lesson Learned*, 2005.

created the so-called ‘Oil for Food’ (OFF) program.<sup>219</sup> It authorized states to permit the import of petroleum and petroleum products originating in Iraq along with all other transactions necessary for it, to produce the total revenue of \$1 billion quarterly.<sup>220</sup> Among other important measures, the resolution requested the Secretary-General to establish an escrow account for easier and more accurate auditing and information access purposes.<sup>221</sup> The OFF has proven to bring little more than new points of contention – disputes over approved goods, their disposition, claimed infrastructural collapse of the state, attempted acquisition of weapons, and goods of dual use – all on top of ever-worsening conditions for the civilian population.<sup>222</sup> Due to plunging humanitarian conditions and escalating mortality rate oil sales caps were increased in 1998, and again in 2001.<sup>223</sup> The program terminated on December 31, 2007, leaving residual issues pertaining to unregulated open contracts.<sup>224</sup> Resolution 1483, which established the Development Fund for Iraq (DFI), also envisaged the termination of the Oil-for-Food programme after which surplus funds would be transferred from the Iraq escrow account to the DFI.<sup>225</sup>

## **Conclusion**

The case study shows the devastating effects that the application of sanctions may inflict. The dire consequences led to reevaluating the effectiveness of sanction regimes and development of a new generation of “targeted sanctions”, which are to alleviate their collateral impact. Yet, the limited protection of nationals of targeted states remains of significant concern to the Security Council and multiple observers.

Delegates should acquire an extensive understanding of the history and practice of the UN Security Council’s sanction regimes. They are strongly encouraged to conduct further research not only on sanctions that have already been in place and their challenges and shortcomings, but also familiarize themselves with the most recent discussions and recommendations pertaining to sanctions design and application. In their position papers, delegates need to not only show the stance of their assigned country on the issue at hand, but also present a thorough knowledge of the most recent debate on the improvement of sanction regimes. Was the country ever subjected to sanctions? If yes, why? What were the types of sanctions imposed? What were the adverse effects? Has the country or its population ever suffered from the collateral impact of sanctions placed on another state? If so, how? Delegates are further encouraged to propose well-grounded recommendations for further development of practices on the topic. Should sanctions be changed? If yes, how? If no, why? During the NMUN simulation, delegates are expected to not only be able to display their knowledge and engage in effective diplomatic debate, but also to be familiar with the Security Council Rules of Procedure.

## **Annotated Bibliography**

### **II. Enhancing Efficiency and Credibility of UN Sanctions**

Farrall, J.M. (2007). *United Nations Sanctions and the Rule of Law*. Cambridge Studies in International and Comparative Law. Cambridge University Press.

*Farrall offers a comprehensive review of the Security Council imposition of sanctions on the Member States that failed to comply with the international laws and regulations, and disregarded calls for cooperation. Farrell’s book is especially worthy due to extensive discussion on the context of the Kadi-judgment by the European Court of Justice, which concerns suspension of implementation of specific sanctions, due to their potential of violation of human rights, and lack of proper procedures and legal for the protection and compensation of individuals at the UN level. In addition, Farrell presents an interesting argument on the effect of sanction regimes on the credibility and authority of the United Nations as a whole.*

Gowlland-Debbas, V., Tehindrazanarivelo, D.L. (2005). *National Implementation of United Nations Sanctions: A Comparative Study*. The Graduate Institute of International Study. Martinus Nijhof Publishers: The Hague Leiden.

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<sup>219</sup> United Nations Security Council, S/RES/986, 1995.

<sup>220</sup> United Nations Security Council, S/RES/986, Art.1, 1995.

<sup>221</sup> United Nations Security Council, S/RES/986, Art.1, 1995.

<sup>222</sup> Wallensteen, P., Staibano, C. Eriksson, M., *The 2004 Roundtable on UN Sanctions Against Iraq: lesson Learned*, 2005.

<sup>223</sup> Wallensteen, P., Staibano, C. Eriksson, M., *The 2004 Roundtable on UN Sanctions Against Iraq: lesson Learned*, 2005.

<sup>224</sup> Security Council Report, *Update Report No. 4 – Iraq*, 2010.

<sup>225</sup> United Nations Security Council, S/RES/1483, 2003.

*There are many instances of the Security Council's imposition of sanction on the Member States, especially in the post-Cold War era. Gowlland-Debbas not only offers a general discussion on regimes created under Article 41 of the UN Charter, but also provides a review of implementation of sanction regimes into domestic legislations. At its core, the publication offers a total of fifteen in-depth national case studies of such implications. This source allows for a better and more accurate understanding of the topic, a more critical perspective on the successes, shortcomings, and criticism of sanction regimes. Distinction to geographic regions, type of government etc. might offer further cues of the components making for sanction a success or failure.*

Lavranos, N. (2009). Judicial Review of UN Sanctions by the European Court of Justice. *Nordic Journal of International Law*, 78, (3): pp. 343-359.

*The ECJ ruling in the Kadi-case carries an unparalleled importance on the perspective and application of the UN sanctions, in that the respect for the core human rights and European constitutional law prevail over any international obligations held by the European Community. It is both important and beneficial for the delegates to gain a deeper understanding of the logic and laws on which the ruling was arrived at, and therefore be able to make more accurate recommendations during the NMUN simulation.*

Lee, J. Iraq Sanctions – Case Number 390. American University, The School of International Service. Retrieved on September 24, 2011 from <http://www1.american.edu/TED/iraqsanc.htm>

*As indicated in the case study, Iraq was subject to extensive and, in effect, extremely devastating sanctions. Lee not only offers descriptive account of the UN sanction regime on Iraq, its stages, political decision-making processes on both sides, but also goes into extensive discussion of its effect on the environment, human rights, the legal cluster etc. This source is valuable not only due to its far-reaching analysis, but also due to its multi-directionality.*

United Nations. (1993). *Repertoire of the practice of the Security Council: Supplement 1989-1992*, United Nations: New York.

*The publication covers both documents and formal meetings of the UN Security Council. It presents the Council's responsibility to maintain international peace and security in searchable sections by year, region, or the relevant article of the UN Charter. In addition to the printed source listed above, delegates are strongly encouraged to visit UN Security Council Repertoire web site at [http://www.un.org/en/sc/repertoire/regional\\_arrangements.shtml](http://www.un.org/en/sc/repertoire/regional_arrangements.shtml), which provides access to further issues of the Repertoire, including the most recent one from years 2004-2007.*

United Nations Security Council. *Security Council Informal Working Group on General Issues of Sanctions*. Retrieved on September 5, 2011 from <http://www.un.org/Docs/sc/committees/sanctions/index.html>

*It is important to recognize that the UN Security Council is aware of the shortcomings of its sanctions regimes. The Informal Working Group on the general issues of sanctions is an excellent source for introductory research of the challenges at hand, as well as the debate on measures and amendments aimed at their alleviation. This source also serves as an outlet for relevant documentation and major initiatives.*

United Nations. *United Nations Compensation Commission – Claim Processing*. Retrieved on August 24, 2011 from [www.uncc.ch/clmsproc.htm](http://www.uncc.ch/clmsproc.htm)

*The Claims Processing provides detailed information on the establishment of the claim process and procedure by the Governing Council. It explains the six categories of claims (A to F), and sub-categories for categories D to F. It further describes the process of reviewing and granting compensation. This source is of particular importance as it first-handedly presents what went wrong in the sanctioned regime based on grievances and claims of the subjects.*

United Nations. *The United Nations Compensation Commission – Important Notice*. Retrieved on August 24, 2010 from <http://www.uncc.ch/>

*This official web site of the UNCC is the primary and therefore most comprehensive source of any information on the works of the Compensation Commission. It does not only provide detailed information on the composition and works of the commission, but also gives access to the claims, claims proceedings, and payment procedures. In addition, there are links to relevant Security Council resolutions, reports and recommendations of the Panel of Commissioners and reports of*

*the Executive Secretary Pursuant to Article 41 of the Provisional Rules for Claims Procedures. Eligibility for compensations were set in six categories: A – individuals that were forced to leave Kuwait or Iraq, B – individuals who suffered severe personal injury, or whose spouse, child or parent dies, C – those who suffered personal losses of over \$100,000, D – larger individual claims, E – claims by corporations, and F – Governments and international organizations. The United Nations Compensation Commission concluded the claims-processing exercise in 2005, and payments to individuals concluded in 2007.*

United Nations Security Council, *S/RES/0661*, 1990. Retrieved on September 21, 2011 from <http://www.un.org/Docs/scres/1990/scres90.htm>

*Resolution 661 is the initial response of the UN Security Council to the Iraq's invasion of Kuwait. It lists a number of sanctions aiming at Iraq correcting its behavior. Additionally, it creates a Committee charged with examining states' compliance, as well as producing reports on the progress being made. The resolution reaffirms Member States' recognition of the legitimate government of Kuwait, and encourages states' assistance to it.*

Wallenstein, P., Staibano, C., Eriksson, M. (Eds.). (2003). *Making Targeted Sanctions Effective – Guidelines for the Implementation of UN Policy Options*. Uppsala University: Stockholm, Sweden. Retrieved on September 2, 2010 from: [http://www.smartsanctions.se/stockholm\\_process/reports/Final%20report%20complete.pdf](http://www.smartsanctions.se/stockholm_process/reports/Final%20report%20complete.pdf)

*Given the recent transformation in the UN sanctions practices, acquiring a thorough understanding of the various types of targeted measures is imperative. However it should be recognized that even the most effective policies may fail without proper implementation. This article offers in-depth analysis of targeted sanctions, points out their potential challenges, as well as offers extensive recommendations on how to make them the most effective.*

### III. Nuclear Disarmament and Non-Proliferation

*“Non-proliferation will only work if all states are willing to cooperate, and that will only happen if all feel they are being treated fairly.”<sup>226</sup>*

#### **Introduction**

Nuclear Disarmament and Non-Proliferation is a complex topic that has been a high priority on the international agenda since the first nuclear weapons were used in 1945 by the United States in attacks against Hiroshima and Nagasaki.<sup>227</sup> A summary of the problem can be found in the co-chairs' preface to the 2009 *Report of the International Commission on Nuclear Non-Proliferation and Nuclear Disarmament*, which is an Australian and Japanese governments initiative:

The nuclear problems the world has to address are immensely large, complex and difficult. Every state with nuclear weapons has to be persuaded to give them up. States without nuclear weapons have to neither want nor be able to acquire them. Terrorists have to be stopped from buying, stealing, building or using them. And in a world where, for good reason, the number of power reactors may double in the next twenty years, the risks associated with purely peaceful uses of nuclear energy have to be effectively countered.<sup>228</sup>

At this stage, it is important to differentiate between nuclear disarmament, arms control, and nuclear non-proliferation. Nuclear disarmament is the removal and elimination of existing nuclear warheads.<sup>229</sup> Arms control is the regulation of the commerce and transfer of weapons, or the reduction without elimination of nuclear stockpiles.<sup>230</sup> Finally, nuclear non-proliferation involves the prevention of new nuclear weapon states (NWS).<sup>231</sup> The Canberra Commission, which is an independent commission created by the Australian government in order to stop the

<sup>226</sup> Bruton, *European Union*, 2009.

<sup>227</sup> Stimson, *The decision to use the Atomic Bomb*, 1947. p. 1.

<sup>228</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*. 2009. p. ix..

<sup>229</sup> Damrosch, *Banning the Bomb: Law its limits*, 1986. p. 654.

<sup>230</sup> Arms Control Association, *2010 Index*, 2010.

<sup>231</sup> Damrosch, *Banning the Bomb: Law its limits*, 1986. p. 655.



proliferation of nuclear weapons, made clear that so long as any state has nuclear weapons, others will want them; so long as these kinds of weapons still exist, it remains unknown if they will be used again; and any such use would be catastrophic for the world as we know it.<sup>232</sup>

Twenty years after the end of the Cold War, which was the historical context in which these devices proliferated after their appearance in World War II, there were at least 23,000 nuclear warheads still in existence, with a combined capacity equivalent to 150,000 times average the power of the warhead used in Hiroshima.<sup>233</sup> Of the states that are permitted by the Nuclear Non-Proliferation Treaty (NPT) to have nuclear weapons, the United States and Russia together have over 22,000 warheads while France, the United Kingdom, China, India, the Democratic People's Republic of Korea, Israel, and Pakistan possess around 1,000 warheads between them.<sup>234</sup> Furthermore, nearly half of all warheads are still operationally deployed, and the US and Russia each have over 2,000 weapons on high alert, ready to be launched immediately.<sup>235</sup>

### ***Nuclear Disarmament and the Non-Proliferation Regime***

Since 1945, the international community has been developing ideas and concrete measures to prevent states from having nuclear weapons and a regime that would limit those who were permitted.<sup>236</sup> Of these instruments constructed by the international community, there are two that have an important weight in the international structure regarding this topic: the Comprehensive Nuclear Test-Ban Treaty (CTBT), which has been drafted and opened for signature, but has not yet entered into force, and the proposed Fissile Material Cut-off Treaty (FMCT).<sup>237</sup> These contain specific measures focused on securing nuclear weapons, materials, and technology from potential terrorists and state carriers as well as reducing proliferations risks.<sup>238</sup>

The Nuclear Suppliers Group and Proliferation Security Initiative are two other initiatives.<sup>239</sup> The Nuclear Suppliers Group was founded in 1974 in response to the Indian nuclear test of that year, and it works as the informal arrangement of 46 nuclear supplier states that seeks to prevent, through the coordination of national export controls, the transfer of equipment, materials and technology that could contribute to nuclear weapons programs in states other than those recognized as nuclear-weapon states in the framework of the NPT.<sup>240</sup> As a consequence of this initiative the Security Council, in *Resolution 1172*, provided a waiver to India in order to allow them make negotiations with the NSG under safeguards.<sup>241</sup> The Proliferation Security Initiative (PSI) was launched by the United States in May 2003, with the purpose of interdicting ships, aircraft, and vehicles suspected of carrying nuclear and other weapons of mass destruction, ballistic missiles, and related technologies from exporting and importing countries that are under suspicion of proliferation.<sup>242</sup>

There are two other relevant instruments, though not as influential as the aforementioned entities. The *Convention on the Physical Protection of Nuclear Material* (1987) and its 2005 amendment, which includes security measures to avoid the acquisition of nuclear weapons by terrorists, aim to prevent diversion of nuclear material into the illicit markets.<sup>243</sup> Furthermore, there are other security and arms control arrangements, including efforts to curb missile proliferation such as the Missile Technology Control Regime (MTCR), which is an association of countries that aim to achieve non-proliferation of unmanned delivery systems capable of delivering weapons of mass destruction.<sup>244</sup>

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<sup>232</sup> *The Canberra Commission in the Elimination of Nuclear Weapons*. <http://www.ccnr.org/canberra.html>.

<sup>233</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*, 2009, p. xviii.

<sup>234</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*, 2009, p. xvii.

<sup>235</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*, 2009, p. xvii.

<sup>236</sup> Stimson, *The decision to use the Atomic Bomb*, 1947, p. 1.

<sup>237</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 2.

<sup>238</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 2.

<sup>239</sup> Lodgaard, *The Future of the Non-Proliferation Treaty*, 2008, p. 5.

<sup>240</sup> Lodgaard, *The Future of the Non-Proliferation Treaty*, 2008, p. 5.

<sup>241</sup> *Peace Now: 2008*, 2008, p. 47.

<sup>242</sup> Lodgaard, *The Future of the Non-Proliferation Treaty*, 2008, p. 5.

<sup>243</sup> Lodgaard, *The Future of the Non-Proliferation Treaty*, 2008, p. 5.

<sup>244</sup> Lodgaard, *The Future of the Non-Proliferation Treaty*, 2008, p. 5.

## *Nuclear Non-Proliferation Treaty*

The Nuclear Non-Proliferation Treaty (NPT) is the most widely ratified arms control treaty, with 189 states party.<sup>245</sup> After a decade of negotiation beginning in the late 1950s, the treaty was opened for signature in 1968 and entered into force in 1970.<sup>246</sup> In this regard, one of the most relevant topics is the issue of non-proliferation to states recognized by the treaty as non-nuclear, including all states other than China, France, Russia, the United Kingdom, and the United States.<sup>247</sup> The great challenge resides in preventing non-nuclear weapons states (NNWS) from acquiring nuclear weapons technology, while still permitting, and in fact promoting, their right to peaceful nuclear technology.<sup>248</sup> A third area of application, which is not contained in the NPT, is that of the countries that already possess nuclear technology but do not have nuclear weapons and are characterized as potential Nuclear Weapons States or threshold states, which represent the most immediate and imminent threat when analyzing nuclear disarmament and non-proliferation.<sup>249</sup> In this category there have several states: Argentina, Brazil, Sweden, South Africa, Iran, Libya, Taiwan, Japan, Australia, Spain, Italy, Switzerland, and the Netherlands.<sup>250</sup>

Articles I and II of the NPT prohibit the transfer of nuclear weapons technology from a NWS to a NNWS, while Article IV liberates accepted nuclear weapons states from these restrictions on acquisition.<sup>251</sup> Article III limits proliferation by requiring all NNWS to be subject to inspections of their nuclear facilities by the IAEA to ensure transparency in all nuclear-related activities.<sup>252</sup> Non-nuclear weapons states, which were asked to join the NPT and thus voluntarily give up their right to acquire nuclear weapons, acquired something in return in Article VI, which requires all signatories of the NPT, NWS in particular, to work towards universal nuclear disarmament.<sup>253</sup> The treaty also promotes the creation of regional nuclear weapon-free zones (NWFZs) in Article VII.<sup>254</sup> Article IV reaffirms the right to develop, research, and use nuclear energy purposes, as well as exchange equipment, materials, and scientific information, for peaceful purposes.<sup>255</sup>

The treaty provides for review conferences every five years in which consensus is needed to take decisions; so far, there have been six review conferences in order to revise, amend, and strengthen treaty requirements and discuss potential challenges.<sup>256</sup> These challenges have included the pursuit of complete nuclear disarmament by states that already possess nuclear weapons designated as nuclear weapons states.<sup>257</sup> Another topic discussed at each of these is the reductions of existing stockpiles to help create better conditions for eventual disarmament negotiations, promoting both multilateral approaches and bilateral approaches; the bilateral approach has been more successful, with the most recent treaty, the new Strategic Arms Reduction Treaty (New START) being the most recent example.<sup>258</sup> The first review conference of the NPT was held in 1975 and focused on addressing the continuing arms race between the Soviet Union and the United States.<sup>259</sup> The review conferences that were held from 1975 until 1990 focused fundamentally on the need to halt the arms race between the United States and the Soviet Union, as well as the need for recognized nuclear weapon states to reduce their stockpiles as required under Article VI of the NPT.<sup>260</sup>

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<sup>245</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 1.

<sup>246</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 1.

<sup>247</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 4.

<sup>248</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 5.

<sup>249</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*, 2009, p. 50.

<sup>250</sup> Evans and Kawaguchi, *Eliminating Nuclear Threats*, 2009, p. 51.

<sup>251</sup> Beckman, Crumlish, Dobkowski, and Lee, *The Nuclear Predicament*, 2000, p. 222.

<sup>252</sup> Beckman, Crumlish, Dobkowski, and Lee, *The Nuclear Predicament*, 2000, p. 222.

<sup>253</sup> United Nations, *Nuclear Non-Proliferation Treaty*, 1968, Article VI.

<sup>254</sup> United Nations, *Nuclear Non-Proliferation Treaty*, 1968, Article VII.

<sup>255</sup> United Nations, *Nuclear Non-Proliferation Treaty*, 1968, Article IV.

<sup>256</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 1.

<sup>257</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 2.

<sup>258</sup> Kwang Teo and Atsushi, *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*, 2005, p. 4.

<sup>259</sup> Nuclear Threat Initiative, *Compliance and growth - NPT review conferences*, 2004.

<sup>260</sup> Nuclear Threat Initiative, *Compliance and growth - NPT review conferences*, 2004.

Regarding disarmament and safeguards, the conference faced difficulties in making any concrete commitments.<sup>261</sup> The majority of states party to the treaty supported past commitments, commended the New Strategic Arms Reduction Treaty, and expressed support for efforts to ratify and bring the CTBT into force.<sup>262</sup> Nevertheless, the FMCT remains undeveloped, with no new progress towards it created at the review conference, and there were no new commitments from Nuclear Weapons States to disarm or even begin negotiation of an eventual Nuclear Weapons Convention (NWC) to eventually disarm.<sup>263</sup> Some of the most important topics addressed in 2010 included “proposals to delegitimize nuclear weapons and reduce their role in nuclear doctrines; opposition to the modernization of nuclear weapons systems; and the need for comprehensive negotiations on some kind of nuclear abolition treaty.”<sup>264</sup> In addition, new proposals from the Non-Aligned Movement (NAM) concentrated in diminishing and eliminating nuclear weapons.<sup>265</sup> The Additional Protocol, which is a safeguard device created in 1997 after the discovery of Iraq’s nuclear program, could not be established as a verification standard or a condition of supply and it was not possible to renew the consensus on the understanding agreed in 2000 that this protocol is an integral part of the IAEA safeguards system.<sup>266</sup> Finally, there was no progress on the crucial issues of the nuclear programs of Iran and North Korea, the nuclear arsenals of India, Pakistan, and Israel, and countries that violate or attempt to withdraw from the treaty.<sup>267</sup>

### ***International Atomic Energy Agency (IAEA)***

The International Atomic Energy Agency (IAEA) is guided by its Statute, which was adopted unanimously by 81 original Member States on October 23, 1956.<sup>268</sup> The statute has been amended three times, in 1969, 1973, and in 1989.<sup>269</sup> The initial inspiration to found the Agency was based on a speech given by US President Dwight D. Eisenhower to the United Nations General Assembly in 1953.<sup>270</sup> Better known as the “Atoms for Peace” address, Eisenhower proposed the creation of an international body that would regulate the peaceful uses of nuclear energy.<sup>271</sup>

The IAEA is officially an independent body from the United Nations; however, it entered into a formal relationship with the UN via an agreement adopted in 1959.<sup>272</sup> In this regard, there are three defining areas of nuclear cooperation that guide the work of the Agency: “Safeguards and Verification; Safety and Security; and Science and Technology.”<sup>273</sup> To fulfill the objectives of Safeguards and Verification, the Agency oversees inspections of nuclear facilities to ensure that known safeguarded nuclear materials are not used for military means.<sup>274</sup> In relation to nuclear Safety and Security, the Agency works to protect people from exposure to radiation by establishing international norms and guidelines for ensuring the security of nuclear materials and facilities.<sup>275</sup> Moreover, the Agency assists States in implementing these guidelines and assists in improving their ability to respond to emergencies that may come up from a nuclear accident.<sup>276</sup> The third pillar of the IAEA’s work, nuclear Science and Technology, consists of encouraging and assisting states to increase their use of nuclear technology in the fields of health, energy, agriculture, and the environment.<sup>277</sup>

Currently, the IAEA’s primary non-compliance concerns are the nuclear programs of Iran and the Democratic People’s Republic of Korea (DPRK). The IAEA asserts that Iran has not shown evidence that it has suspended its enrichment-related activities or its heavy water programs.<sup>278</sup> Iran did not cooperate with the Agency’s inquiries into

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<sup>261</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 3.

<sup>262</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 3.

<sup>263</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 3.

<sup>264</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 5.

<sup>265</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 7.

<sup>266</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 7.

<sup>267</sup> Johnson, *Assessing the 2010 NPT Review Conference*, 2011, p. 9.

<sup>268</sup> IAEA, *Statute of the International Atomic Energy Agency*, 1956.

<sup>269</sup> IAEA, *Statute of the International Atomic Energy Agency*, 1956, Article VI, paragraph A.1, D.

<sup>270</sup> Eisenhower, *Address to the 470th Plenary Meeting of the UN General Assembly*, 1953.

<sup>271</sup> Eisenhower, *Address to the 470th Plenary Meeting of the UN General Assembly*, 1953.

<sup>272</sup> IAEA, *The Texts of the Agency’s Agreements with the United Nations, 1959, INFCIRC/11 8 IAEA, The Texts of the Agency’s Agreements with the United Nations*, 1959, INFCIRC/11, Section I.A, Article III.1(a), III.1(b).

<sup>273</sup> IAEA, *Our Work; Three Pillars of Nuclear Cooperation*, 2009.

<sup>274</sup> IAEA, *Statute of the International Atomic Energy Agency*, 1956, Article XII.

<sup>275</sup> IAEA, *Safety Standards for Protecting People and the Environment, 2006 20 Turner, The Statesman’s Yearbook*, 2008, p. 27.

<sup>276</sup> IAEA, *Our Work; Three Pillars of Nuclear Cooperation*, 2009.

<sup>277</sup> IAEA, *Statute of the International Atomic Energy Agency*, 1956, Article II.

<sup>278</sup> ElBaradei, *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran*, 2009, Section C.

the possible military purposes of its nuclear program based on their argument of its peaceful nature.<sup>279</sup> In the case of the DPRK, the state does not cooperate with the IAEA at all, since there is no binding commitment from the DPRK to the IAEA; consequently, no inspections of the DPRK's nuclear program can take place.<sup>280</sup>

While the NPT constitutes the framework for disarmament measures, it is the responsibility of the IAEA to verify NPT compliance by inspecting and monitoring the activities of Member States that utilize nuclear technology, in order to verify that the technology is being used for peaceful purposes.<sup>281</sup> To comply with its responsibility, the IAEA has three types of safeguard agreements: comprehensive safeguards agreements, item-specific safeguards agreements, and voluntary offer agreements.<sup>282</sup> In Article III of the NPT, all NNWS States Party must create comprehensive safeguards agreements with the IAEA, which cover all of the declared nuclear activities within a state that can be inspected and monitored by the IAEA. The item-specific safeguard arrangement covers only certain nuclear activities within a state, which are under the jurisdiction of the IAEA.<sup>283</sup> Currently the IAEA has item-specific safeguards agreements with India, Pakistan, and Israel, all of which are states that have not signed onto the NPT and therefore do not have comprehensive safeguards agreements with the IAEA.<sup>284</sup> Voluntary offer agreements are primarily undertaken between the IAEA and nuclear weapons states, since under the terms of the NPT, nuclear weapons states are exempt from comprehensive safeguards agreements.<sup>285</sup>

### ***Role of the Security Council***

Article 26 of the United Nations Charter assigns responsibility of promoting disarmament to the Security Council.<sup>286</sup> In this regard, it is important to point out that the Council, addressing threats and breaches to international peace and security, acted in response to Israel's nuclear programs in 1981, Iraq's nuclear program from 1991 to 2007, nuclear tests by India and Pakistan in 1998, Iran's non-compliance to IAEA's mandate in 2006, among others.<sup>287</sup> In this context, heads of state in a Council meeting in 1992 determined that Weapons of Mass Destruction (WMD) proliferation is a threat to international peace and security, opening the possibility of acting under Chapter VII of the Charter if an event of this nature occurred again.<sup>288</sup>

The Council acted under Chapter VII in 2004 through *Resolution 1540*, requiring all states to establish controls over WMD and the means to deliver them and to enact and enforce the necessary implementing legislation, with the objective of prohibiting terrorists and other non-state actors from developing, acquiring and using WMDs.<sup>289</sup>

One of the areas that the Security Council has taken action on is the acquisition of nuclear weapons by non-state actors; *Resolution 1373*, adopted after attacks on the United States on September 11, 2001, was the first action taken by the Council in this regard.<sup>290</sup> Another area where the Security Council has intervened is through Security Assurances to Non-Nuclear Weapons States, adopting *Resolution 255* in 1968 and *Resolution 984* in 1995 in order to provide security assurances to NNWS when they are either in conflict with, or under threat of conflict with, an NWS.<sup>291</sup> Furthermore, the Council has acted regarding the establishment of NWFZs through *Resolution 1170*, which accepted the African Nuclear Weapons Free Zone Treaty.<sup>292</sup> In this same sub topic, the Council has worked in terms of establishing a nuclear weapons free zone in Middle East through *Resolution 687* of 1991, which took Iraq's actions as a step towards a nuclear weapons free zone; *Resolution 1284*, passed in 1999, with the creation of

<sup>279</sup> ElBaradei, *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran*, August 2009, Section C.

<sup>280</sup> IAEA, *Agency Inspectors Asked to Leave Democratic People's Republic of Korea (DPRK) Press Release*, 2009.

<sup>281</sup> Holman, Canton, Maher, McIntyre, and Thomas, *Europa World Year Book 2003*, 2003, p. 82.

<sup>282</sup> International Atomic Energy Agency, *The Safeguards System of the International Atomic Energy Agency*.

<sup>283</sup> International Atomic Energy Agency, *The Safeguards System of the International Atomic Energy Agency*.

<sup>284</sup> International Atomic Energy Agency, *The Safeguards System of the International Atomic Energy Agency*.

<sup>285</sup> International Atomic Energy Agency, *The Safeguards System of the International Atomic Energy Agency*.

<sup>286</sup> United Nations, *United Nations Charter*, 1945, Article 26.

<sup>287</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>288</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>289</sup> United Nations, *Resolution 540*, 2004.

<sup>290</sup> United Nations Security Council, *Resolution 1373*, 2001.

<sup>291</sup> United Nations Security Council, *Resolution 255*, 1968.

United Nations Security Council, *Resolution 984*, 1995.

<sup>292</sup> United Nations Security Council, *Resolution 1170*, 1998.

UNMOVIC in order to achieve the goal of a Middle East free from nuclear weapons; and *Resolution 1747* of 2007 and *Resolution 1803* of 2008.<sup>293</sup> Additionally, Syria presented a draft resolution in 2003 towards a nuclear free zone in this region, but it was never put to vote due to a lack of support by P5 members.<sup>294</sup>

In 1981, the Council adopted *Resolution 487* to address Israel's attack against the Osirak reactor and emphasize the recognition to the right of all states, especially developing countries, to establish programs of peaceful nuclear development.<sup>295</sup> In 1993, the Council responded to the DPRK's refusal to create a safeguards agreement, adopting *Resolution 825* to affirm the importance of the IAEA safeguard agreements as part of the implementation of the NPT.<sup>296</sup> In the wake of the India and Pakistan nuclear weapons tests, the Security Council adopted *Resolution 1172*, which reaffirmed the NPT and promoted the CTBT while emphasizing the commitment in Article VI of the NPT of the five nuclear-weapon states to nuclear disarmament.<sup>297</sup> With regards to the ongoing dispute over Iran's nuclear program, the Council has adopted *Resolution 1737* in 2006, *Resolution 1747* in 2007, and *Resolution 1803* in 2008; in each document, the Council has reiterated its commitment to the NPT and reaffirmed the right of states to acquire nuclear power for peaceful purposes.<sup>298</sup>

### ***Possible actions and future challenges***

Secretary-General Ban Ki-moon, in his address to the East-West Institute, expressed about the future actions that should be taken towards disarmament, recommending the following:

Commence discussions, perhaps within its Military Staff Committee, on security issues in the nuclear disarmament process. They could unambiguously assure non-nuclear-weapon states that they will not be the subject of the use or threat of use of nuclear weapons. The Council could also convene a summit on nuclear disarmament. Non-NPT states should freeze their own nuclear-weapon capabilities and make their own disarmament commitments.<sup>299</sup>

The Security Council has not taken substantial actions regarding disarmament but there are plenty of actions that it may take to do it. In this regard, a possibility to strengthen its role towards the topic is to define periodic meetings and an annual high-level meeting to follow the issues in the nuclear disarmament and non-proliferation agenda thematically.<sup>300</sup> Another option could be to establish a high-level subsidiary body to support the Council in elaborating substantial strategies in order to achieve the goal of disarmament and non-proliferation.<sup>301</sup> An additional option could be to develop an omnibus Council resolution bringing together and updating all of the existing resolutions, statements, and other decisions of the Council to date, containing thematic outcomes on issues of disarmament, arms control, and non-proliferation.<sup>302</sup> Further options include the development of plans of universalization of the NPT and the IAEA Additional Protocol; plans for better compliance with the NPT and IAEA Additional Protocol by the Council; a method to deal with states withdrawing from the NPT or IAEA agreements; or leading plans for new processes for the establishment of regional NWFZs.<sup>303</sup>

### ***Conclusion***

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<sup>293</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>294</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>295</sup> United Nations Security Council, *Resolution 487*, 1981.

<sup>296</sup> United Nations Security Council, *Resolution 825*, 1993.

<sup>297</sup> United Nations Security Council, *Resolution 1172*, 1998.

<sup>298</sup> United Nations Security Council; *Resolution 1737*, 2006.

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<sup>299</sup> United Nations News Centre, *Address to the East-West Institute entitled "The United Nations and security in a nuclear-weapon-free world,"* 2008.

<sup>300</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>301</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>302</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

<sup>303</sup> Security Council Report, *Cross-Cutting Report No. 2: The Security Council's Role In Disarmament And Arms Control: Nuclear Weapons, Non-Proliferation And Other Weapons Of Mass Destruction*, 2009.

Achieving nuclear disarmament and non-proliferation is a challenging topic for the international community, but also a vital challenge, as nuclear disarmament is necessary to maintain international peace and security. The NPT and the IAEA are key tools to enforce the nuclear disarmament and non-proliferation; however, the role of the Security Council must be more active than simply reaffirming its previous actions.

In order to find solutions, delegates should be able to answer the following questions: What has been the role of the Security Council regarding the topic? Has the Council been effective in making progress towards the long-term goal of disarmament and non-proliferation? Is the NPT an effective instrument, or should the nuclear arms control regime revolve around an alternative instrument? What additional programmes or documents could help create norms for states to move towards general complete disarmament? What incentives can be provided to NWS to reduce their nuclear arsenal and long-term elimination? What could be the incentives to stop NNWS from acquiring nuclear weapons? Delegates should also keep in mind that nuclear disarmament and non-proliferation is one of the clearest challenges to the maintenance of international peace and security; as this is the primary function of the Security Council, the Council must act.

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*The speech given by this honorable man in US and world's history was fundamental in order to have the system about Nuclear Weapons that we have. This is the essence of having a change in the world from a view of war and power to have peace and the calm of not having devices that would assure the earth's destruction if used. As this speech served as the initiation of the package of rules that the international system has regarding this topic, it is relevant to revise it.*

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*Mohamed ElBaradei is a person of great influence when talking about nuclear weapons. He is the authorized voice to know where to go to in any circumstance that may affect the actual system. In this source, this character identifies the next steps in this subject and the great challenges that arose since the NPT has become weaker as well as the possible ways to keep going towards a strong framework.*

Evans, G. and Kawaguchi, Y. (2009). *Eliminating Nuclear Threats*. Report of the International Commission on Nuclear Non-Proliferation and Disarmament. [http://www.icnnd.org/reference/reports/ent/pdf/ICNND\\_Report-EliminatingNuclearThreats.pdf](http://www.icnnd.org/reference/reports/ent/pdf/ICNND_Report-EliminatingNuclearThreats.pdf)

*The International Commission on Nuclear Non-Proliferation and Disarmament is an important actor in the Nuclear Disarmament framework. The information that this report provides is very interesting regarding the facts in the composition of the regime inside this topic and has a detailed overview of the topic.*

Goldblat, J., & Lomas, P. (1987). The threshold countries and the future of the nuclear non-proliferation regime. In J. Simpson (Ed.).

*Goldblat and Lomas discuss the idea that, circumstantially, the threshold states are in the eye of the hurricane, especially due to the crisis in which the regime is immersed. The lack of trust in the NPT and the enforcement of its rules, it becomes more dangerous that nuclear weapons can get to be managed by wrong people. The great challenge of the regime in these days is resumed in the prevention from acquiring nuclear weapons by Non-Nuclear States and this source summarizes this challenge effectively.*

International Atomic Energy Agency. (2008, November). *IAEA Primer*. Retrieved September 3, 2011, from <http://www.iaea.org/Publications/Factsheets/English/iaea-primer.pdf>



*The IAEA is the most important organ in the system to make the rules provided in the NPT to be respected and complied by the members. This source provides the history of action made by this organ and permits a more profound understanding on how it works for countries to have nuclear devices and the fundamental difference of having a peaceful nuclear program and having other that is not for the same purpose.*

Kwang Teo, T. and Atsushi, T. (2005). *Incentives and Disincentives for Accession into the Non-Proliferation Treaty: Why is Nuclear Non-Proliferation Globally Supported*. APSA.

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*The Safeguards agreements and existing ways to regulate the bearing of nuclear technology becomes every day more complex to explain and understand. This source provides a complete explanation of what these are and how in the last years, these have become more relevant due to the circumstances and due to the weakness of the existing norms. It may be relevant to consider that these could open doors for new proposals and strengthen the system.*

Scheinman, L. (1985). *The Non-Proliferation Role of the IAEA*. Baltimore: Johns Hopkins University Press.

*This is a very interesting document on how the role of the IAEA is important when talking of Nuclear Non-Proliferation. It provides a relevant analysis of the role of the IAEA on achieving this goal. It's an objective source that gives out the strong parts of this regime and the weaknesses as well so it can be analyzed in a way that proposals to strengthen this body would be plausible.*

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*This document is basic to understand the system under which nuclear weapons disappearance is the main objective. The statute gives a detailed gridline of what the IAEA is about, including how the organs work and what is the process to which every state should stick to in order to acquire nuclear technology and even have nuclear weapons. It is fundamental to revise this statute in a detailed manner as the IAEA is a crucial organ regarding nuclear non-proliferation as it is the only one that can make inspections inside countries and have a close link with the Security Council.*

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# Rules of Procedure Security Council

## ***Introduction***

1. These rules shall be the only rules which apply to the Security Council (hereinafter, referred to as “the Council”) and shall be considered adopted by the Council prior to its first meeting.
2. For purposes of these rules, the Security Council Director, the Assistant Director(s), the Under- Secretaries-General, and the Assistant Secretaries-General are designates and agents of the Secretary- General and Director-General, and are collectively referred to as the “Secretariat.”
3. Interpretation of the rules shall be reserved exclusively to the Director-General or her/his or her designate. Such interpretation shall be in accordance with the philosophy and principles of the National Model United Nations, and in furtherance of the educational mission of that organization.
4. For the purposes of these rules, “President” shall refer to the chairperson, or acting chairperson of the Council.

## I. MEETINGS

### ***Rule 1***

Meetings of the Security Council shall, with the exception of the periodic meetings referred to in rule 4, be held at the call of the President any time he or she deems necessary.

### ***Rule 2***

The President shall call a meeting of the Security Council at the request of any member of the Council.

### ***Rule 3***

The President shall call a meeting of the Security Council if a dispute or situation is brought to the attention of the Security Council under Article 35 or under Article 11 (3) of the Charter, or if the General Assembly makes recommendations or refers any question to the Security Council under Article 11 (2), or if the Secretary-General brings to the attention of the Security Council any matter under Article 99.

### ***Rule 4***

Periodic meetings of the Security Council called for in Article 28 (2) of the Charter shall be held once a year, at such times as the Security Council may decide.

### ***Rule 5***

Meetings of the Security Council shall normally be held at the seat of the United Nations. Any member of the Security Council or the Secretary-General may propose that the Security Council should meet at another place. Should the Security Council accept any such proposal, it shall decide upon the place and the period during which the Council shall meet at such place.

## II. AGENDA

### ***Rule 6***

The Secretary-General shall immediately bring to the attention of all representatives on the Security Council all communications from States, organs of the United Nations, or the Secretary-General concerning any matter for the consideration of the Security Council in accordance with the provisions of the Charter.

### ***Rule 7***

The provisional agenda for each meeting of the Security Council shall be drawn up by the Secretary-General and approved by the President of the Security Council. Only items which have been brought to the attention of the representatives of the Security Council in accordance with rule 6, items covered by rule 10, or matters which the Security Council had previously decided to defer, may be included in the provisional agenda.



**Rule 8**

The provisional agenda for a meeting shall be communicated by the Secretary-General to the representatives on the Security Council at least three days before the meeting, but in urgent circumstances it may be communicated simultaneously with the notice of the meeting.

**Rule 9**

The first item of the provisional agenda for each meeting of the Security Council shall be the adoption of the agenda.

**Rule 10**

Any item of the agenda of a meeting of the Security Council, consideration of which has not been completed at that meeting, shall, unless the Security Council otherwise decides, automatically be included in the agenda of the next meeting.

**Rule 11**

The Secretary-General shall communicate each week to the representatives on the Security Council a summary statement on matters of which the Security Council is seized and of the stage reached in their consideration.

**Rule 12**

The provisional agenda for each periodic meeting shall be circulated to the members of the Security Council at least twenty-one days before opening of the meeting. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members at least five days before the meeting. The Security Council may, however, in urgent circumstances, make additions to the agenda at any time during a periodic meeting. The provisions of rule 7, paragraph one, and of rule 9, shall apply also to periodic meetings.

### III. REPRESENTATION AND CREDENTIALS

**Rule 13**

Each member of the Security Council shall be represented at the meetings of the Security Council by an accredited representative. The credentials of a representative of the Security Council shall be communicated to the Secretary-General not less than twenty-four hours before he or she takes her/his seat on the Security Council. The credentials shall be issued either by the Head of State or of the Government concerned or by its Minister of Foreign Affairs. The Head of Government or Minister of Foreign Affairs of each member of the Security Council shall be entitled to sit on the Security Council without submitting credentials.

**Rule 14**

Any Member of the United Nations not a member of the Security Council and any State not a Member of the United Nations, if invited to participate in a meeting or meetings of the Security Council, shall submit credentials for the representative appointed by it for this purpose. The credentials of such a representative shall be communicated to the Secretary-General not less than twenty-four hours before the meeting, which he or she is invited to attend.

**Rule 15**

The credentials of representatives on the Security Council and of any representative appointed in accordance with rule 14 shall be examined by the Secretary-General who shall submit a report to the Security Council for approval.

**Rule 16**

Pending the approval of the credentials of a representative on the Security Council in accordance with rule 15, such representatives shall be seated provisionally with the same rights as other representatives.

**Rule 17**

Any representative on the Security Council, to whose credentials objection has been made within the Security Council, shall continue to sit with the same rights as other representatives until the Security Council has decided the matter.

#### IV. PRESIDENCY

**Rule 18**

The Presidency of the Security Council shall be held in turn by the members of the Security Council in the English alphabetical order of their names. Each President shall hold office for one calendar month.

**Rule 19**

The President shall preside over the meetings of the Security Council and, under the authority of the Security Council, shall represent it in its capacity as an organ of the United Nations.

**Rule 20**

Whenever the President of the Security Council deems that for the proper fulfillment of the responsibilities of the presidency he or she should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he or she shall indicate her/ his decision to the Council. The presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next in English alphabetical order, it being understood that the provisions of this rule shall apply to the representatives on the Security Council called upon successively to preside. This rule shall not affect the representative capacity of the President as stated in rule 19 or her/his duties under rule 7.

#### V. SECRETARIAT

**Rule 21**

The Secretary-General shall act in that capacity in all meetings of the Security Council. The Secretary-General may authorize a deputy to act in his place at meetings of the Security Council.

**Rule 22**

The Secretary-General, or his deputy acting on his behalf, may make either oral or written statements to the Security Council concerning any question under consideration by it.

**Rule 23**

The Secretary-General may be appointed by the Security Council, in accordance with rule 28, as rapporteur for a specified question.

**Rule 24**

The Secretary-General shall provide the staff required by the Security Council. This staff shall form a part of the Secretariat.

**Rule 25**

The Secretary-General shall give to representatives on the Security Council notice of meetings of the Security Council and of its commissions and committees.

**Rule 26**

The Secretary-General shall be responsible for the preparation of documents required by the Security Council and shall, except in urgent circumstances, distribute them at least forty-eight hours in advance of the meeting at which they are to be considered.

#### VI. CONDUCT OF BUSINESS

**Rule 27**

The President shall call upon representatives in the order in which they signify their desire to speak.

**Rule 28**

The Security Council may appoint a commission or committee or a rapporteur for a specified question.

**Rule 29**

The President may accord precedence to any rapporteur appointed by the Security Council. The Chairman of a commission or committee, or the rapporteur appointed by the commission or committee to present its report, may be accorded precedence for the purpose of explaining the report.

**Rule 30**

If a representative raises a point of order, the President shall immediately state his ruling. If it is challenged, the President shall submit his ruling to the Security Council for immediate decision and it shall stand unless overruled.

**Rule 31**

Proposed resolutions, amendments, and substantive motions shall normally be placed before the representatives in writing.

*For purposes of this rule, all "proposals" shall be in the form of working papers prior to their approval by the Secretariat. Working papers will not be copied, or in any other way distributed, to the Council by the Secretariat. The distribution of such working papers is solely the responsibility of the sponsors of the working papers. Along these lines, and in furtherance of the philosophy and principles of the NMUN and for the purpose of advancing its educational mission, representatives should not directly refer to the substance of a working paper that has not yet been accepted as a draft resolution. After approval of a working paper, the proposal becomes a draft resolution and will be copied by the Secretariat for distribution to the Council. These draft resolutions are the collective property of the Council and, as such, the names of the original sponsors will be removed. The copying and distribution of amendments is at the discretion of the Secretariat, but the substance of all such amendments will be made available to all representatives in some form.*

**Rule 32**

Principal motions and draft resolutions shall have precedence in the order of their submission. Parts of a motion or of a draft resolution shall be voted on separately at the request of any representative, unless the original mover objects.

**Rule 33**

The following motions shall have precedence in the order named over all principal motions and draft resolutions relative to the subject before the meeting: 1. To suspend the meeting; 2. To adjourn the meeting; 3. To adjourn the meeting to a certain day or hour; 4. To refer any matter to a committee, to the Secretary-General or to a rapporteur; 5. To postpone discussion of the question to a certain day or indefinitely; or 6. To introduce an amendment.

Any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate.

*As the motion to adjourn the meeting, if successful, would end the meeting until the Council's next regularly scheduled meeting the following year, and in accordance with the philosophy and principles of the NMUN and in furtherance of its educational mission, the President will not entertain such a motion until the end of the last meeting of the Council.*

**Rule 34**

It shall not be necessary for any motion or draft resolution proposed by a representative on the Security Council to be seconded before being put to a vote.

**Rule 35**

A motion or draft resolution can at any time be withdrawn so long as no vote has been taken with respect to it.

**Rule 36**

If two or more amendments to a motion or draft resolution are proposed, the President shall rule on the order in which they are to be voted upon. Ordinarily, the Security Council shall first vote on the amendment furthest removed from the original proposal and then on the amendment next furthest removed until all amendments have been put to the vote, but when an amendment adds or deletes from the text of a motion or draft resolution, that amendment shall be voted on first.

**Rule 37**

Any Member of the United Nations which is not a member of the Security Council may be invited, as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Council when the Security Council considers that the interests of that Member are specially affected, or when a Member brings a matter to the attention of the Security Council in accordance with Article 35 (1) of the Charter.

*If the Council considers that the presence of a Member invited according to this rule is no longer necessary, it may withdraw the invitation again. Delegates invited to the Council according to this rule should also keep in mind their role and obligations in the committee that they were originally assigned to. For educational purposes of the NMUN Conference, the Secretariat may thus ask a delegate to return to his or her committee when his or her presence in the Council is no longer required.*

**Rule 38**

Any Member of the United Nations invited in accordance with the preceding rule, or in application of Article 32 of the Charter, to participate in the discussions of the Security Council may submit proposals and draft resolutions. These proposals and draft resolutions may be put to a vote only at the request of a representative of the Security Council.

**Rule 39**

The Security Council may invite members of the Secretariat or other persons, whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence.

## VII. VOTING

**Rule 40**

Voting in the Security Council shall be in accordance with the relevant Articles of the Charter and of the Statute of the International Court of Justice.

## VIII. LANGUAGE

**Rule 41**

English shall be the official and working language of the Security Council.

**Rule 42**

Any representative may make a speech in a language other than the language of the Security Council. In this case, he or she shall herself/himself provide for interpretation into English.

*This rule does not affect the total speaking time allotted to those representatives wishing to address the body in a language other than English. As such, both the speech and the interpretation must be within the set time limit.*

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**Rule 43**

Verbatim records of meetings of the Security Council shall be drawn up in the language of the Council.

**Rule 44**

All resolutions and other documents shall be published in the language of the Security Council.

**Rule 45**

Documents of the Security Council shall, if the Security Council so decides be published in any language other than the language of the Council.

## IX. PUBLICITY OF MEETINGS, RECORDS

**Rule 46**

Unless it decides otherwise, the Security Council shall meet in public. Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

**Rule 47**

Subject to the provisions of rule 51, the verbatim record of each meeting of the Security Council shall be made available to representatives on the Security Council and to the representatives of any other States which have participated in the meeting not later than 10:00 a.m. of the first working day following the meeting.

**Rule 48**

The representatives of the States which have participated in the meeting shall, within two working days after the time indicated in rule 49, inform the Secretary-General of any corrections they wish to have made in the verbatim record.

**Rule 49**

The Security Council may decide that for a private meeting the record shall be made in single copy alone. This record shall be kept by the Secretary-General. The representatives of the States which have participated in the meeting shall, within a period of ten days, inform the Secretary-General of any corrections they wish to have made in this record.

**Rule 50**

Corrections that have been requested shall be considered approved unless the President is of the opinion that they are sufficiently important to be submitted to the representatives of the Security Council. In the latter case, the representatives on the Security Council shall submit within two working days any comments they may wish to make. In the absence of objections in this period of time, the record shall be corrected as requested.

**Rule 51**

The verbatim record referred to in rule 49 or the record referred to in rule 51, in which no corrections have been requested in the period of time required by rules 50 and 51, respectively, or which has been corrected in accordance with the provisions of rule 52, shall be considered as approved. It shall be signed by the President and shall become the official record of the Security Council.

**Rule 52**

The official record of public meetings of the Security Council, as well as the documents annexed thereto, shall be published in the official language of the Council as soon as possible.

**Rule 53**

At the close of each private meeting the Security Council shall issue a *communiqué* through the Secretary-General.

**Rule 54**

The representatives of the Members of the United Nations which have taken part in a private meeting shall at all times have the right to consult the record of that meeting in the office of the Secretary-General. The Security Council may at any time grant access to this record to authorized representatives of other Members of the United Nations.

**Rule 55**

The Secretary-General shall, once each year, submit to the Security Council a list of the records and documents which up to that time have been considered confidential. The Security Council shall decide which of these shall be made available to other Members of the United Nations, which shall be made public, and which shall continue to remain confidential.

## X. RELATIONS WITH OTHER UNITED NATIONS ORGANS

**Rule 56**

Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority vote.