



CHSVMUN
UNITED NATIONS
SECURITY
COUNCIL
BACKGROUND
GUIDE

Letter from the Executive Board

Greetings delegates, we welcome you to the online edition of CHSVMUN and to the UNSC committee. We're excited to have a fruitful two days of discussion on the agenda and we hope all of you leave the committee contended. It is to be noted that the Background guide is meant to provide the delegates with a basic understanding of the agenda discussed and explain the technicality of the issue. However, we request every delegate to not restrict their research to the background guide and put in more time into appropriate preparations for the committee. We request every delegate to make themselves familiar with the mandate of the committee and try to stick to the same as much as possible during the two days. Please feel free to contact the executive board with regards to any doubts or clarifications about the proceedings of the committee.

The Executive Board - UNSC

Koshal Ram, President

Manas Sankar, Vice President

Abhiram Dasika, Vice President

United Nations Security Council:

Under the Charter, the Security Council has primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter, all Member States are obligated to comply with Council decisions. The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, The United Nations Security Council can resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security. The Security Council also recommends the General Assembly on the appointment of the Secretary-General and the admission of new Members to the United Nations and together with the General Assembly, it elects the judges of the International Court of Justice.

The Security Council can discuss anything related to the maintenance of international peace and security as long as it does not violate the terms stipulated in the UN Charter. Thus, the mandate of the UNSC is not limited to the discussion of only a particular agenda item related to military affairs but it can discuss anything which comes under the scope of the United Nations based on the principles enshrined in the UN charter.

The Charter of the United Nations:

The Charter of the United Nations also known as the UN Charter is the founding document of the United Nations, an inter-governmental body which is responsible for maintaining international peace and security across the globe. The United Nations Conference on International Organization was held in San Francisco, California, 25 April- 26 June 1945, to draft the Charter of the United Nations. The text was based on earlier proposals, negotiated in various subsidiary bodies, and Finally adopted unanimously in a plenary meeting of the Conference on 25 June 1945. Representatives of 50 countries participated in the San Francisco Conference. The Charter was opened for signature on 26 June 1945.

The Preparatory Commission of the United Nations was established by the San Francisco Conference on 25 June 1945 and was established to make practical arrangements For the transition from a proposal embodied in the Charter to a Functioning organization. The Executive Committee was composed of the representatives of the governments.

In accordance with Article 110, the Charter entered into force on 24 October 1945, after ratification by the Five permanent members of the Security Council and a majority of the other countries. Twenty-two countries subsequently deposited their instruments of ratification. As of now 193 countries have signed and ratified the UN.

Chapter VI: Pacific Settlement of Disputes

Chapter VI of the United Nations Charter encompasses pacific settlement of disputes. The Resolutions made under Chapter VI are not legally enforceable, although the legally binding nature is not precluded/ignored completely. The various schools of thoughts include Chapter VI not having enforcement mechanisms but relying on state provided constitutional enforcement methods in issues not related directly to the member nation/state in question.

Chapter VI warrants member nations to look out for peaceful solutions including but not limited to “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.” Even after implementation or the lack of it, if the dispute resolution methods professed under Chapter VI fail, then under article 35 of the United Nations Charter, any country can refer the question to the Security Council or the General Assembly.

Chapter VI provisions include arbitration and submission of matters not under arbitration to the Security Council and specifically recommendations to be provided by the Security Council and not the power to adopt binding resolutions, in which case, the Security Council acts under Chapter VII of the United Nations Charter.

Chapter VII: Action with respect to threats to peace

Chapter VII of the United Nations Charter encompasses powers of the Security Council to maintain international peace and security. Chapter VII provisions include “determination of existence of any threat to the peace, breach of the peace, or act of aggression” and actions- military and otherwise- to restore “international peace and security” which is the preambulatory purpose of the United Nations as mentioned in its Charter drafted and adopted after the Second World War to prevent crimes against peace which included starting or waging a war against the territorial integrity, sovereignty and political independence of a state, in violation of treaties and conventions.

The Security Council acting under Chapter VII is granted substantial power, in the wake of failure of League of Nations in the years between first and the second world war, making the Security Council the most powerful international organ in all of history. Enforcement of international responsibility is provided for under Chapter VII through measures of economic and military sanctions. Chapter VII Resolutions majorly act under article 39 and then take decisions pertaining to the rest of the chapter. “A Security Council Resolution is considered to be ‘a Chapter VII

resolution' if it makes an explicit determination that the situation under consideration constitutes a threat to the peace, a breach of the peace, or an act of aggression, and/or explicitly or implicitly states that the Council is acting under Chapter VII in the adoption of some or all operative paragraphs."

Introduction to the South China Sea:

Territorial disputes in the South China Sea involve both island and maritime claims among several sovereign states within the region, namely Brunei, the People's Republic of China, Taiwan, Malaysia, the Philippines, and Vietnam. There are disputes concerning both Spratly and the Paracel islands, as well as maritime boundaries in the Gulf of Tonkin and elsewhere. There is a further dispute in the waters near the Indonesian Natuna Islands. The interests of different nations include acquiring fishing areas around the two archipelagos; the potential exploitation of suspected crude oil and natural gas under the waters of various parts of the South China Sea; and the strategic control of important shipping lanes. The South China Sea is a critical commercial gateway for a significant portion of the world's merchant shipping, and hence is an important economic and strategic sub-region of the Indo-Pacific. It is also the site of several complex territorial disputes that have been the cause of conflict and tension within the region and throughout the Indo-Pacific.

Background of the Crisis:

Over the past several decades, the South China Sea (SCS) has become an area of increasing tensions over claimants' assertions of ownership and usage. A hotbed of controversial territorial disputes over waters central to the livelihoods of all nations involved, economically, environmentally, culturally, and diplomatically, the question of the South China Sea is one of the most pressing current global issues to the international community.

If left unchecked, the current rising tensions in the South China Sea may well develop into a broader conflict. Already during the past years several incidents took place whereby for instance several fishing boats were rammed and harassed by Chinese ships. Over the years, the incidents have grown both in number and severity. The question is still out whether these incidents can already be labelled as 'acts of violence' from an international legal point of view.

South China sea conflict, Spratly and Paracel island conflict: A Map of Claims

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Geography:

Geographically, the South China Sea plays a significant role in the geopolitics of the Indo-Pacific. The South China Sea is bordered by China, Malaysia, Brunei, Singapore, Vietnam, the Philippines and Taiwan. Their significant economic growth over the last 20 years, as well as activity in other Asian economies including Japan and South Korea, has contributed to a large portion of the world's commercial merchant shipping passing through these waters, from which it continues on through the Malacca, Sunda and Lombok Straits. The South China Sea also contains rich fishing grounds and is reported to hold significant reserves of undiscovered oil and gas, which have in part driven many of the territorial disputes that characterise the region. The major island and reef formations in the South China Sea are the Spratly Islands, Paracel Islands, Pratas Islands, Natuna Islands and the Scarborough Reef.

Territorial Disputes:

The defining characteristic of the South China Sea and a significant source of tensions in the region are the competing legal claims of territorial sovereignty over its islands. The United Nations Convention on the Law of the Sea (UNCLOS), which was concluded in 1982 and came into force in 1994, was meant to establish a series of legal measures and laws on the economic rights of nations based on their territorial waters and continental baselines. This is encompassed in the Exclusive Economic Zone (EEZ), a 200 nautical mile area that extends from the baseline of the coastal nation and gives the nation sole natural resource exploitation rights within the zone. While UNCLOS has been signed and ratified by nearly all the coastal countries in the South China Sea, legal and territorial disputes still persist, primarily over the Spratly and Paracel Islands as well as the Scarborough Shoal. In terms of the Spratlys, more than 60 geographic features have been reportedly occupied by claimants, which consist of Taiwan, Vietnam, the Philippines, China and Malaysia. The Paracel Islands are the subject of overlapping claims from China, Vietnam and Taiwan. In 1974 South Vietnamese troops were driven from the Paracels by Chinese forces in a battle that resulted in their occupation by China. A further clash between Vietnamese and Chinese forces occurred in 1988, with reports of significant Vietnamese casualties. Another major

dispute is over the Scarborough Shoal, which is claimed by China, the Philippines and Taiwan.

Territories under dispute:

China claims by far the largest portion of territory - an area defined by the "nine dash line" which stretches hundreds of miles south and east from its most southerly province of Hainan. Beijing says its right to the area goes back centuries to when the Paracel and Spratly island chains were regarded as integral parts of the Chinese nation, and in 1947 it issued a map detailing its claims. It showed the two island groups falling entirely within its territory. Those claims are mirrored by Taiwan. Vietnam hotly disputes China's historical account, saying China had never claimed sovereignty over the islands before the 1940s. Vietnam says it has actively ruled over both the Paracels and the Spratlys since the 17th Century - and has the documents to prove it. The other major claimant in the area is the Philippines, which invokes its geographical proximity to the Spratly Islands as the main basis of its claim for part of the grouping. Both the Philippines and China lay claim to the Scarborough Shoal (known as Huangyan Island in China) - a little more than 100 miles (160km) from the Philippines and 500 miles from China. Malaysia and Brunei also lay claim to territory in the South China Sea that they say falls within their economic exclusion zones, as defined by UNCLOS - the United Nations Convention on the Law of the Sea. Brunei does not claim any of the disputed islands, but Malaysia claims a small number of islands in the Spratlys.

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Map from New Atlas of China's Construction (1936) published by Bai Meichu. China uses this map as the basis of its historical claim argument.

PERMANENT COURT OF ARBITRATION

Introduction:

The Parties to the arbitration were the Republic of the Philippines (the "Philippines") and the People's Republic of China ("China") (together, the "Parties"). The arbitration concerns disputes between the Parties regarding the legal basis of maritime rights and entitlements in the South China Sea, the status of certain geographic features in the South China Sea, and the lawfulness of certain actions taken by China in the South China Sea. The basis for this arbitration is the 1982 United Nations Convention on the Law of the Sea (the "Convention" or "UNCLOS"). Both the Philippines and China are parties to the Convention, the Philippines having ratified it on 8 May 1984, and China on 7 June 1996. The Convention was adopted as a "constitution for the oceans", in order to "settle all issues relating to the law of the sea," and has been ratified by 168 parties. The Convention addresses a wide range of issues and includes as an integral part a system for the peaceful settlement of disputes. This system is set out in Part XV of the Convention, which provides for a variety of dispute settlement procedures, including compulsory arbitration in accordance with a procedure contained in Annex VII to the Convention. It was pursuant to Part XV of, and Annex VII to, the Convention that the Philippines commenced this arbitration against China on 22 January 2013.

Violations as stated by the Philippines:

The Philippines found People's republic of China guilty of:

- a. Interfering with the exercise of the Philippines' rights under the Convention, including with respect to fishing, oil exploration, navigation, and the construction of artificial islands and installations
- b. Failing to protect and preserve the marine environment by tolerating and actively supporting Chinese fishermen in the harvesting of endangered species and the use of harmful fishing methods that damage the fragile coral reef ecosystem in the South China Sea
- c. Inflicting severe harm on the marine environment by constructing artificial islands and engaging in extensive land reclamation at seven reefs in the Spratly Islands.

Award by the Arbitration Court:

1. Found that the 2002 China–ASEAN Declaration on Conduct of the Parties in the South China Sea, the joint statements of the Parties referred to in paragraphs 231 to 232 of this Award, the Treaty of Amity and Cooperation in Southeast Asia, and the Convention on Biological Diversity, do not preclude, under Articles 281 or 282 of the

- Convention, recourse to the compulsory dispute settlement procedures available under Section 2 of Part XV of the Convention.
2. The Tribunal found that China had, through its construction of installations and artificial islands at Mischief Reef without the authorization of the Philippines, breached Articles 60 and 80 of the Convention with respect to the Philippines' sovereign rights in its exclusive economic zone and continental shelf. The Tribunal further found that, as a low-tide elevation, Mischief Reef is not capable of appropriation.
 3. The tribunal ruled in favour of the Philippines against China over territorial disputes in the South China Sea; in its major ruling, the tribunal ruled that China has "no historical rights" based on the "nine-dash line" map.

The People's Republic of China has rejected the ruling, as has the Republic of China (Taiwan).

RECENT TENSIONS:

As the USS Ronald Reagan carrier battle group sails into the South China Sea, evidence has emerged that China has deployed fighter jets to an airstrip on a disputed island there. Satellite imagery from July 15 shows at least four aircrafts present. This move comes two days after U.S. Secretary of State Michael Pompeo declared that “Beijing’s claims to offshore resources across most of the South China Sea are completely unlawful.” It is also set against a large U.S.-led naval exercise and rising tensions across the region generally.

The planes are believed to be the Chinese-made J-11B variant of the famous Flanker aircraft. These are broadly equivalent to the F-15 Eagle used by the U.S. Air Force. China builds a range of versions of the Russian family of fighter aircraft, originally known as the Sukhoi Su-27 Flanker. While the exact variant is hard to discern from the satellite imagery, there is no doubt that these are Flankers.

The Flankers are on the airstrip at Woody Island in the Paracel Islands. Although de-facto occupied by China, it is also claimed by Taiwan and Vietnam, and is one of many islands in the area that are disputed. China beefed up the facilities in recent years and has deployed fighters and bombers there previously.

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The presence of the carriers was not in response to political or world events, the statement added, but relations between Washington and Beijing are currently strained over everything from the new coronavirus to trade to Hong Kong.

Heated rhetoric has been on the rise in the region, where Brunei, Malaysia, the Philippines, Taiwan and Vietnam challenge China's claim to about 90% of the sea.

China held military drills in the sea earlier this month, drawing strong condemnation from both Vietnam and the Philippines, at the same time as the two carriers first crossed the waterway for what the U.S. Navy said were pre-planned exercises.

Conclusion:

The South China Sea disputes are extremely complex when viewed from the perspective of international law and the law of the sea. They involve sensitive issues of sovereignty over offshore features. They also involve on how the LOS Convention applies to the feature in the South China Sea, including whether the features are Islands of being subject to a claim of sovereignty and a territorial sea of their own, whether the islands are entitled to an EEZ (EXCLUSIVE ECONOMIC ZONE) and continental shelf of their own, and how to delimit the maritime boundary when there is an

overlap between the EEZ from the mainland and an EEZ from an offshore island. These disputes would be very complicated even if only two States were involved. They are even more complex when several States are involved. While tensions in the South China Sea are continuing to evolve, there are several processes and dialogues underway in an effort to build confidence within the region and establish a common code of conduct. In 2002, ASEAN and China issued a joint 'Declaration on the Conduct of Parties in the South China Sea', which affirmed the signatories' commitment to international law and the freedom of navigation in the South China Sea. The Declaration also called for the adoption of a code of conduct for the South China Sea, to be negotiated by the parties subsequently. It is unclear how the possible negotiation of a code of conduct will be affected by international legal action that has been taken by the Philippines against China, or how ASEAN will respond to China's recent policies in the South China Sea. However, as a basis for a code to be negotiated, confidence between the maritime powers in the South China Sea will first need to be established.

APPENDIX A

CHAPTER V: THE SECURITY COUNCIL

Article 23

The Security Council shall consist of Fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election. Each member of the Security Council shall have one representative.

Article 24

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

In discharging these duties, the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Article 27

Each member of the Security Council shall have one vote. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Article 28

The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI: PACIFIC SETTLEMENT OF DISPUTES

Article 33

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

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.

Article 35

Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII: ACTION WITH RESPECT TO THREATS TO PEACE, BREACHES OF PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may 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 to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including Right of passage, necessary for the purpose of maintaining international peace and security.

Such agreements shall govern the numbers and types of forces, their degree of readiness and location, and the nature of the facilities and assistance provided. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members and shall be

subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by the Members of the United Nations, as the Security Council may determine. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

APPENDIX B:

United Nations Convention on the Law of the Sea:

https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

UNCLOS is an acronym for the United Nations Convention for the Law of the Sea. The convention is also sometimes referred to as the Law of the Sea Convention or the Law of the Sea treaty. UNCLOS, as a law of the sea came into operation and became effective from 16th November 1982. However, the first time such a proposal was announced before the United Nations was in the year 1973. Over the course of nine years, with representations from over 160 countries coming forward, UNCLOS came into existence.

Important parts relevant to this committee:

The Territorial Sea

Every state has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles measured from the baseline determined in accordance with this convention.

The outer limit of the territorial sea is the line every point of which is at a distance from the baseline equal to the breadth of the territorial sea. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured.

Features of Territorial Sea

1. The foreign flag would have a right to innocent passage through the territorial waters.
2. An innocent passage can be suspended temporarily in specified areas for the coastal States security or to conduct a weapon exercise.
3. Criminal jurisdiction can be exercised by the coastal state on foreign flag vessels in a territorial sea.
4. Civil jurisdiction can only be exercised if the vessel is passing through the territorial sea after leaving the internal waters.
5. Transit passage is allowed for Ship through the state.
6. States may enact legislation concerning the safety of navigation, pollution prevention, uncontrolled fishing activities, customs, immigration, health and sanitary arrangements.

Exclusive Economic Zone:

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

In an Exclusive Economic Zone, the coastal state has the following rights:

1. Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters suprajacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.
2. Can enact regulations on pollution and environmental protection.
3. Has exclusive right to construct artificial islands and security zones.
4. Has exclusive right to fishing and development of fish farms.
5. Can conduct scientific research and marine exploration.

The obligation of vessels in an exclusive economic zone:

1. Freedom of navigation as in high seas.
2. Lay submarine cable/pipeline that is passing through EEZ.
3. Observe Pollution regulations as per the coastal state regulations.
4. Fishing gear if carried must be stored/secured condition. No fishing allowed.
5. Respect and comply with the security zones of the offshore installations, artificial islands of the coastal state.

High seas

- The High Seas represents all that sea area which is not capable of forming part of any sovereign state and are not included in the Exclusive Economic Zone, the territorial waters or internal waters of a coastal state or the archipelagic waters of the Archipelagic state.
- The High Seas are open to all states whether coastal or landlocked.
- Freedom on the high seas is exercised under the conditions laid down by the convention and by other rules.

Under high Seas for both coastal and landlocked States:

1. Freedom of navigation.
2. Freedom of overflight.
3. Freedom of laying submarine cables and pipelines.
4. Freedom to construct artificial islands and other installations permitted under international law.
5. Freedom of fishing, subject to the conditions.
6. Freedom of scientific research.

The high seas shall be reserved for peaceful purposes.

Right to Innocent Passage

Ships of all states whether coastal or landlocked enjoy the right of innocent passage through the territorial waters.

Passage means navigation through the territorial sea for the purpose of:

- traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- proceeding to or from internal waters or a call at such roadstead or port facility.

Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only insofar as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Salient features of the Innocent Passage

1. A passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

(a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(b) any exercise or practice with weapons of any kind;

(c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;

(d) any act of propaganda aimed at affecting the defence or security of the coastal State;

(e) the launching, landing or taking on board of any aircraft;

(f) the launching, landing or taking on board of any military device;

(g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;

(h) any act of wilful and serious pollution contrary to this Convention;

- (i) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.

Rights and Duties of a Coastal State

Innocent Passage of a Vessel (Territorial Waters)

1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:
 - the safety of navigation and the regulation of maritime traffic;
 - the protection of navigational aids and facilities and other facilities or installations;
 - the protection of cables and pipelines;
 - the conservation of the living resources of the sea;
 - the prevention of infringement of the fisheries laws and regulations of the coastal State;
 - the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
 - marine scientific research and hydrographic surveys;
 - the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.
2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.
3. The coastal State shall give due publicity to all such laws and regulations.
4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

Exclusive Economic Zone

In the exclusive economic zone, the coastal State has:

1. Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

2. Jurisdiction as provided for in the relevant provisions of this Convention with regard to:
 - the establishment and use of artificial islands, installations and structures;
 - marine scientific research;
 - the protection and preservation of the marine environment;
3. The coastal state may extend their jurisdiction if necessary to ensure compliance with laws and regulations adopted by it.