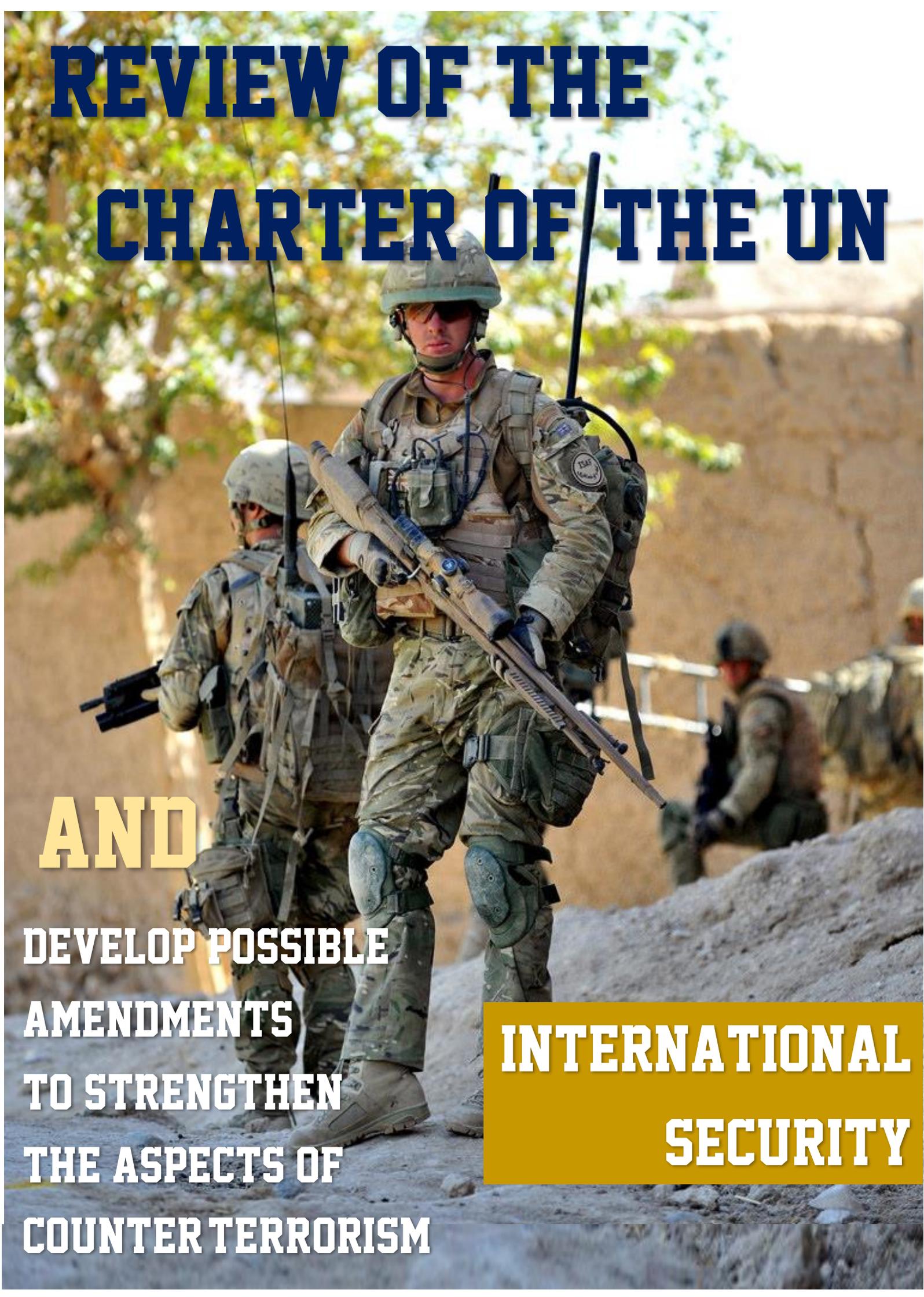


REVIEW OF THE CHARTER OF THE UN



AND

**DEVELOP POSSIBLE
AMENDMENTS
TO STRENGTHEN
THE ASPECTS OF
COUNTER TERRORISM**

**INTERNATIONAL
SECURITY**

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Letter from the Chair

Dear Delegates,

Welcome to the Taiwan Capital Model United Nations (TCMUN) 2017. We are pleased to introduce you to our committee, the General Assembly 6th Committee (GA6), also known as the Legal Committee. I am Chair Shirley Yen, currently a sophomore majoring in economics in National Taiwan University, also serving as the Director of Academics for National Taiwan University Model United Nations. Our Co-Chairs are Alex Han and Daniel Han, both in their second year in Cheng-kong Senior High. On behalf of the GA6 staff team, welcome to GA6; we are pleased to have you as a participant. This year, the topic being debated in GA6 is:

Review of the Charter of the United Nations and Develop Possible Amendments to Strengthen the Aspects of Counter-terrorism and International Security.

For those of you who have attended other General Assembly Committees for past conferences, GA6 will be relatively technical with special regards to the system and structure of the UN, as well as international law in general. With this regard, this Background Guide is to assist you to know where to begin your research with; however, bear in mind that the range of the materials related to our topic is quite wide, and thus, I have also attached some useful links in the Annex for you to delve deeper into the topic. We hope that you will find this Background Guide useful as an introduction, yet please note that it is not intended to replace individual research; we highly encourage you to challenge yourself and read through not only the Guide, but also the documents and conventions related to this topic, as well as familiarizing yourself with the international legal system.

We wish you all the best in your preparation. Looking forward to seeing you at the conference.

Best regards,
Shirley Yu-hsuan Yen
Chair of GA6, TCMUN 2017

Part I: Committee Overview: Mandates, Functions and Powers

According to Articles 10 to 17 of the Charter of the United Nations, the General Assembly of the United Nations has the functions and powers of discussing any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter (Article 10); discussing any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council (Article 11, 2); promoting international cooperation in the economic, social, cultural, educational, and health fields, and promoting international cooperation in the political field and encouraging the progressive development of international law and its codification (Article 13, 1, a, b).

The provisions of Article 13 are generally considered as an authorization to develop, to adopt new treaties on a wider scale, as well as to invite states' ratification, accession, or their signatures. A variety of UN bodies are engaged in law-making processes, yet the General Assembly Sixth Committee--Legal Committee, is where the establishment or amendments of general international laws take place.

Part II: Review of the Charter of the United Nations and Develop Possible Amendments to Strengthen the Aspects of Counter-terrorism and International Security

Introduction

Terrorism: A Controversy in Definition

Until this very day, there still isn't a universally-agreed definition on the term "terrorism," mainly due to political reasons such as whether *acts of self-determination* or *states' armed actions* could be viewed as terrorism. Still, "the use or threat of serious violence" seems to be the core agreed element of terrorism. The United Nations General Assembly has been using such political description, condemning acts of terrorism: "Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them."¹

Generally, there are five categories of terrorism: State-sponsored or State-supported Terrorism, Sub-state Terrorism, Individual Terrorism, Al-Qa'eda-Styled Terrorism, and Cyberterrorism. Each and every type of terrorism poses a threat to innocent civilians, whether on a large or small scale.

¹ United Nations General Assembly A/RES/49/60

Statement of the Problem

Although the United Nations and various international organizations, as well as governments of the Member States of the United Nations have been putting into multiple efforts regarding counter-terrorism as well as the maintenance of international security, continuous terrorist acts have been taking place, threatening not only innocent civilians, but also international security as a whole. Whether or not *acts of self-determination* or *states' armed actions* could be considered as terrorist acts is also a question that is yet to be defined.

The founding objectives of the United Nations demonstrated clearly:

“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, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person...”

“AND FOR THESE ENDS to practice tolerance and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security,” ²

Chapter I of the Charter of the United Nations also confirms:

“To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace,” ³

It is, therefore, the obligation for the United Nations to review its own Charter for the purpose of adapting itself to the new era, which has changed significantly from when it was established: today, terrorism is used as a technique of Violent Non-State Actors (VNSAs), which, observably, contradicts the very essence of the United Nations. Article 108 of the Charter states that:

“Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council,” ⁴

The goal of the General Assembly 6th Committee, hence, is to review the UN Charter and develop, possibly, amendments to it for the determination of strengthening the aspects of counter-terrorism and international security.

History and Discussion

² Charter of the United Nations, Preamble

³ Charter of the United Nations, Article I

⁴ UN Charter, Chapter XVIII Amendments, Article 108

Terrorism: Stereotypes towards Religion

Islamic organizations, the term “terrorism” and the falsely-believed direct link between them has been long in the picture of the international society. From Al-Qa’eda to today’s ISIL; from the long-existed dispute between the State of Israel and Palestine, giving rise to Hamas, to the question of Syria, to the Charlie Hebdo Attack in France, as well as recent terrorist attacks across Europe, terrorism is undoubtedly one of the most urgent issues in our global community. However, many believe that Islamism and terrorism are equivalent, mainly due to the misunderstandings of the religion Islam, as well as the biased coverages of social media. In general, there are a few common misunderstandings by those who do not see the whole picture and thus link Islamism to terrorism: First of all, they believe that Muslims who have faith in Jihad (“holy war”) are terrorists. Secondly, they generalize their misunderstanding of the reasons of Jihad to the whole population of Muslims.

However, is there really a direct link between Islamism and terrorism?

Alleged link between Islam and extremism dates back to the 7th century during which the Kharijites rebelled against the ruling powers. The belief of “Allahu Akbar” and “Jihad” lead some extreme Muslims to commit acts of violence, creating an air of terror among the society. In our modern society, this technique developed and became a technique for those who has a certain political goal to achieve, as well as an end for those who wants to voice a certain belief, ideology or concept. Those actions creating an air of terror are now referred to as acts of terrorism; an example would be the 911 attack in the United States in 2001, as well as the United Kingdom subway bombing in 2005. In addition, media is also a major factor contributing to the stereotypes; reports and coverages on news channels, articles published in newspapers or journals, as well as information spreaded through social media could be biased and lead readers to false conclusions. Stories about formidable villains remains popular in our society, and the general public is inclined to point fingers at those who are different from them, whether or not it is rational or logical to do so. This stereotype with extreme hatred only then lead to a worse situation: those innocent yet blamed for what they have not done then turn to extremist groups, as those groups are only where they are not discriminated or judged unfairly- this is now a known-technique which extremist or terrorist groups utilize to recruit more believer.

Past Amendments to the Charter

Formal Amendments to the text of the Charter⁵

Date	Amendment
31 August 1965	Expanded of the UN Security Council from 11 to 15 members; the supermajority required for action increases from 7 to 9 votes
31 August 1965	Expanded of UN Economic and Social Council (ECOSOC) from 18 to 27 members.
12 June 1968	The amended Article 109 provides that a General Conference of Member States for the purpose of reviewing the Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members (formerly seven) of the Security Council.
24 September 1973	Expands the UN ECOSOC from 27 to 54 members by amending Article 61 of the Charter

Major changes without formal amendment of the text

1. The reinterpretation of the requirement in Article 27 that “Decisions of the Security Council on all other matters [not procedural] shall be made by an affirmative vote of nine members including the concurring votes of the permanent members...”: the term “concurring votes” includes abstentions.
2. Russian Federation’s assumption of the Soviet Union's permanent seat in the UN Security Council.
3. The Taipei-based Republic of China's permanent seat in the Security Council was assumed by the Beijing-based People's Republic of China when the General Assembly adopted Resolution 2758.⁶

United Nations Past Actions on Counter-Terrorism

⁵ Introductory Note to the Charter of the UN, the International Court of Justice, <http://www.icj-cij.org/documents/index.php?p1=4&p2=1&>

⁶ UN GA resolution 2758, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/327/74/IMG/NR032774.pdf?OpenElement>

The United Nations has worked its way into counter-terrorism by establishing various instruments regarding different aspects of terrorist acts, inclusive of acts related to civil aviation⁷, explosive materials⁸, nuclear materials⁹, maritime navigation¹⁰, taking hostages¹¹, as well as other related issues such as the finance of terrorism¹², and the protection of international staff against terrorist acts¹³. The General Assembly Resolution 60/288¹⁴ adopted in 2006 established The United Nations Global Counter-Terrorism Strategy, in which the GA demonstrated measures to address the spread of terrorism, measures to prevent and combat terrorism, measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the UN system, as well as measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.^[SEP]

The United Nations Global Counter-terrorisms Strategy¹⁵

The United Nations General Assembly adopted the Global Counter-Terrorism Strategy, an international instrument to strengthen efforts to counter terrorism on national, regional and global levels on 8 September 2006. The strategy is the first global consensus reached by all Member States of the United Nations, in which a common strategic and operational means was developed regarding counter-terrorism; Member States have agreed to take steps into combatting terrorism both collectively and individually. Specific steps includes the strengthening of states' capacities to prevent and counter terrorist acts to better coordinate with the United Nations' counter-terrorism actions. The Strategy is reviewed every 2 years; the Fifth Review of the Strategy took place on 1 July 2016.

The four pillars of the UN Global Counter-Terrorism Strategy includes:

1. Addressing the conditions conducive to the spread of terrorism,
2. Measures to prevent and combat terrorism,

⁷ Conventions related to Civil Aviation includes the 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft; the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft; the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation; the 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft; and the 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft

⁸ The 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

⁹ The 1980 Convention on the Physical Protection of Nuclear Material; and the 2005 Amendments to the Convention on the Physical Protection of Nuclear Material

¹⁰ The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf; the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; the 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf; and the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism

¹¹ The 1979 International Convention against the Taking of Hostages

¹² The 1999 International Convention for the Suppression of the Financing of Terrorism

¹³ The 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons

¹⁴ General Assembly Resolution 60/288, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/60/288

¹⁵ The United Nations Counter-Terrorism Implementation Task Force (CTITF), <https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy>

3. Measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard, and
4. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.

Questions to Consider

1. Is the current Charter relevant for the international society today, in terms of regulations toward invasion of states' sovereignty and national security?
2. Are *acts of self-determination* or *states' armed actions* considered as Terrorism? If so, what could the United Nations do to combat these types of terrorism? Are there some possible ways to strengthen the Charter in this regard?
3. What are some ways to strengthen the Charter to combat violent non-state actors (VNSAs) which we often refer to as terrorists? Considering the existence of related Conventions, how could those be incorporated?
4. How could the General Assembly 6th Committee cooperate with other organs, councils or organizations to implement the existing legal instruments which fulfill the Charter's objectives?

ANNEX I: Related Articles from the Charter of the United Nations

CHAPTER I

PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE 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

1. 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 rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided. 3. 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 or between the Security Council and groups of 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 fulfillment 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

1. 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.

2. 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.

3. 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.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.
2. 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-defense 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-defense 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.

CHAPTER XVII

TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

ANNEX II: Useful Links

General Links

1. The Charter of the United Nations
<http://www.un.org/en/charter-united-nations/>
2. Introduction to the General Assembly of the United Nations Sixth Committee: Legal Committee <http://www.un.org/en/ga/sixth/>
3. UN Global Counter Terrorism Strategy
<https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy>

4. Joint Four-Nation Declaration (Moscow Conference, October 1943)
<http://publicinternationallaw.in/sites/default/files/salient/01-General/06-Declaration%20of%20Four%20Nations.pdf>
5. Global Terrorism Index 2015
<http://economicsandpeace.org/wp-content/uploads/2015/11/Global-Terrorism-Index-2015.pdf>

UN Conventions for Counter Terrorism

1. Convention on Offences and Certain Other Acts Committed On Board Aircraft
<http://www.un.org/en/sc/ctc/docs/conventions/Conv1.pdf>
2. Convention for the Suppression of Unlawful Seizure of Aircraft
<http://www.un.org/en/sc/ctc/docs/conventions/Conv2.pdf>
3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation
<http://www.un.org/en/sc/ctc/docs/conventions/Conv3.pdf>
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents
<http://www.un.org/en/sc/ctc/docs/conventions/Conv4.pdf>
5. International Convention Against the Taking of Hostages
<http://www.un.org/en/sc/ctc/docs/conventions/Conv5.pdf>
6. Convention on the Physical Protection of Nuclear Material
<http://www.un.org/en/sc/ctc/docs/conventions/Conv6.pdf>
Amendments to the Convention on the Physical Protection of Nuclear Material
<http://www.un.org/en/sc/ctc/docs/conventions/Conv6amd.pdf>
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971
<http://www.un.org/en/sc/ctc/docs/conventions/Conv7.pdf>
8. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation
<http://www.un.org/en/sc/ctc/docs/conventions/Conv8.pdf>
9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf
<http://www.un.org/en/sc/ctc/docs/conventions/Conv9.pdf>
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection
<http://www.un.org/en/sc/ctc/docs/conventions/Conv10.pdf>
11. International Convention for the Suppression of Terrorist Bombings
<http://www.un.org/en/sc/ctc/docs/conventions/Conv11.pdf>
12. International Convention for the Suppression of the Financing of Terrorism
<http://www.un.org/en/sc/ctc/docs/conventions/Conv12.pdf>
13. International Convention for the Suppression of Acts of Nuclear Terrorism
<http://www.un.org/en/sc/ctc/docs/conventions/Conv13.pdf>