

# Letter from the Executive Board

Greetings Delegates,

It's our immense pleasure to welcome you all to the Security Council of the inaugural session of DPSR Model United Nations, the first ever all historic summit to be simulated in India.

The United Nations Security Council is the primary organ of the United Nations in charge of the maintenance of international peace and security.

Security Council 4414th

Meeting Date: 13th November 2001

Theme: Response to 9/11 attacks

As our committee is set in a historic timeline having a fixed freeze date, it is imperative for the delegates to stick to the facts occurring before the freeze date i.e. 13th November 2001, however not limiting your ability of deduction based on the events occurring after 13th November 2001.

In order to represent your nations to the best of your capabilities, we urge you to not let yourself be restricted to the confines of this background study guide, as it has been made with the purpose of making the base of things clear to you, and we hope it steers you in the right direction as you prepare for the upcoming conference.

We encourage you to adapt and constrict yourself to the timeline and display the best of your diplomatic courtesy. Feel free to revert back to the executive board for any queries or for any form of assistance that you may require.

Wishing you luck for the conference.

Warm Regards,

**PARTH GUPTA-(CHAIRPERSON)**

**ANANNAY GUPTA-(VICE CHAIRPERSON)**

**TANISHK GOYAL-(RAPPORTEUR)**

**September 11, 2001**

At 8: 46 on the morning of September 11, 2001, the United States became a nation transformed. An airliner traveling at hundreds of miles per hour and carrying some 10,000 gallons of jet fuel plowed into the North Tower of the World Trade Center in Lower Manhattan. At 9: 03, a second airliner hit the South Tower. Fire and smoke billowed upward. Steel, glass, ash, and bodies fell below. The Twin Towers, where up to 50,000 people worked each day, both collapsed less than 90 minutes later. At 9: 37 that same morning, a third airliner slammed into the western face of the Pentagon. At 10: 03, a fourth airliner crashed in a field in southern Pennsylvania. It had been aimed at the United States Capitol or the White House, and was forced down by heroic passengers armed with the knowledge that America was under attack. More than 2,600 people died at the World Trade Center; 125 died at the Pentagon; 256 died on the four planes. The death toll surpassed that at Pearl Harbor in December 1941.

On 9/ 11, the defense of U. S. air space depended on close interaction between two federal agencies: the Federal Aviation Administration (FAA) and North American Aerospace Defense Command (NORAD). Existing protocols on 9/ 11 were unsuited in every respect for an attack in which hijacked planes were used as weapons.

The civilians, firefighters, police officers, emergency medical technicians, and emergency management professionals exhibited steady determination and resolve under horrifying, overwhelming conditions on 9/ 11. Their actions saved lives and inspired a nation.

For complete details about September 11, read:

<https://www.9-11commission.gov/report/911Report.pdf>

## [Events leading to 9/11](#)

In February 1993, a group led by Ramzi Yousef tried to bring down the World Trade Center with a truck bomb. They killed six and wounded a thousand. Plans by Omar Abdel Rahman and others to blow up the Holland and Lincoln tunnels and other New York City landmarks were frustrated when the plotters were arrested. In October 1993, Somali tribesmen shot down U. S. helicopters, killing 18 and wounding 73 in an incident that came to be known as "Black Hawk down." Years later it would be learned that those Somali tribesmen had received help from al Qaeda. ) In early 1995, police in Manila uncovered a plot by Ramzi Yousef to blow up a dozen U. S. airliners while they were flying over the Pacific. In November 1995, a car bomb exploded outside the office of the U. S. program manager for the Saudi National Guard in Riyadh, killing five Americans and two others. In June 1996, a truck bomb demolished the Khobar Towers apartment complex in Dhahran, Saudi Arabia, killing 19 U. S. servicemen and wounding hundreds. The attack was carried out primarily by Saudi Hezbollah, an organization that had received help from the government of Iran.

Until 1997, the U. S. intelligence community viewed Bin Ladin as a financier of terrorism, not as a terrorist leader. In February 1998, Usama Bin Ladin and four others issued a self-styled fatwa, publicly declaring that it was God's decree that every Muslim should try his utmost to kill any American, military or civilian, anywhere in the world, because of American "occupation" of Islam's holy places and aggression against Muslims. In August 1998, Bin Ladin's group, al Qaeda, carried out near-simultaneous truck bomb attacks on the U. S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. The attacks killed 224 people, including 12 Americans, and wounded thousands more

In December 1999, Jordanian police foiled a plot to bomb hotels and other sites frequented by American tourists, and a U. S. Customs agent arrested Ahmed Ressam at the U. S. Canadian border as he was smuggling in explosives intended for an attack on Los Angeles International Airport.

The 9/ 11 attacks on the World Trade Center and the Pentagon were far more elaborate, precise, and destructive than any of these earlier assaults. But by September 2001, the executive branch of the U. S. government, the Congress, the news media, and the American public had received clear warning that Islamist terrorists meant to kill Americans in high numbers.

## United States Presence in Saudi Arabia

On August 2, 1990 Iraq invaded and occupied Kuwait under Saddam Hussein. With Iraqi forces on the Saudi border, the monarchy dismissing the objection towards non muslim help, invited the deployment of U.S. forces in Saudi territory.

Arguments raised that Mecca and Medina, the cities in which the Prophet Mohamed received and recited Allah's message should only be defended by Muslims and not by presence of 'infidels'.

The U.S. 82nd Airborne Division landed in north-eastern Saudi city of Dhahran and was deployed in the desert barely 400 miles from Medina.

Despite the assurance of President George H.W. Bush to King Fahd in 1990, that all U.S. forces based in Saudi Arabia would be withdrawn once the Iraqi threat had been dealt with, by 1996 the Americans were still there. Following which, he released a fatwā against the United States, which was first published in Al Quds Al Arabi, a London-based newspaper. It was entitled "Declaration of War against the Americans Occupying the Land of the Two Holy Places.

## United States support of Israel

A belief that the Lebanon war of 1982 witnessed the injustice and tyranny of the American-Israeli alliance against the people in Palestine and Lebanon became common accounting to when America allowed the Israelis to invade Lebanon, helped by the U.S. Sixth Fleet. Extremists viewed this as an opportunity for vengeance believing that the Americans should taste some of what they are tasting and force them to stop killing their innocent children and women.

## The fatwa of 1998

The 1998 fatwa reached Al Quds Al Arabi by fax by a group identified as the "World Islamic Front for Jihad Against Jews and Crusaders". It claims stating that "to kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it." Meanwhile, claims of American eagerness to destroy Iraq, the strongest neighboring Arab state, and their endeavor to fragment all the states of the region such as Iraq, Saudi Arabia, Egypt, and Sudan through their disunion and weakness to guarantee Israel's survival and the continuation of the brutal crusade occupation of the Peninsula were present too

This fatwā complains of American military presence in the Arabian Peninsula, and American support for Israel. It purports to provide religious authorization for indiscriminate killing of Americans and Jews everywhere.

## The UNSC response to the 9/11 till now

12 September: In its 4370th meeting, the Council stood to unanimously adopt resolution 1368 (2001), a prominent clause of which being, 'Unequivocally condemns in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington (D.C.) and Pennsylvania and regards such acts, like any act of international terrorism, as a threat to international peace and security;

James Cunningham; United States expressed on how 'no distinction would be made between those who committed those acts and those who harbored the criminals. The horrific images burned into global memory would serve as a constant reminder to all to stamp out that scourge.'

Press release:

<http://www.un.org/News/Press/docs/2001/SC7143.doc.htm>

28 September: SECURITY COUNCIL UNANIMOUSLY ADOPTS WIDE-RANGING ANTI-TERRORISM RESOLUTION; The council called for suppressing financing, Improving International Cooperation. Resolution 1373 (2001) also creates the Counter – Terrorism Committee to Monitor Implementation under rule 28 of its provisional rules of procedure and demanding a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General.

Press release:

<http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>

25 October: The 4394th meeting saw discussions on the "smart sanctions", which seek to pressure regimes rather than peoples and thus reduce humanitarian costs, have been gaining further support. Such sanctions, for instance, could involve freezing financial assets and blocking the financial transactions of political elites or entities whose behaviour triggered sanctions in the first place. The Bonn Berlin process and its second and third stages were highlighted upon.

12 November: At the meeting of the Council, ANATOLIY ZLENKO, Minister for Foreign Affairs of Ukraine expressed that the international community had to eliminate hatred and ethnic and religious intolerance that continued to constitute a breeding ground for numerous conflicts. Also, he stated that the council had to resolve the problems of proliferation of weapons of mass destruction and their means of delivery and related technologies. All of those issues assumed additional significance in the aftermath of recent events

JACK STRAW, Foreign Secretary of the United Kingdom, said that his Government's simple message was that terrorism was criminal, and there was no political, religious or ideological cause that could justify the use of such indiscriminate violence.

The implementation of resolution 1373 (2001) was also a priority for every Member State of the United Nations, he stressed.

Press release:

<http://www.un.org/News/Press/docs/2001/sc7207.doc.htm>

## Response of the United States till now

-- On September 23, Executive Order (E.O.) 13224, froze all the assets of 27 foreign individuals, groups, and entities linked to terrorist acts or supporting terrorism and authorized the freezing of assets of those who commit, or pose a significant threat of committing, acts of terrorism.

- President George W. Bush signed Executive Order (E.O.) 132241 on September 23 pursuant to his authority under the International Emergency Economic Powers Act (IEEPA). This order blocks all property and interests in property of foreign persons and entities designated by the President in the Order, or designated by the Secretary of State as committing, or posing a significant risk of committing, acts of terrorism threatening the security of U.S. nationals or U.S. national security, foreign policy, or economy, if that property is either within the U.S. or within the possession or control of U.S. persons

Under Section 219 of the Immigration and Nationality Act/2 (as amended by the Antiterrorism and Effective Death Penalty Act of 1996), the Secretary of State may, in consultation with the Attorney General and the Secretary of the Treasury, designate an organization as a Foreign Terrorist Organization ("FTO") period if the organization is a "foreign organization" that "engages in terrorist activity" that "threatens the security of U.S. nationals or the security of the United States". The Department of the Treasury may require U.S. financial institutions possessing or controlling assets of designated FTOs to block all financial transactions involving these assets. Further, it is a federal crime



to provide material support to designated FTOs, and certain members of these FTOs are not allowed to enter or remain in the U.S.

- On September 28, the U.S. sponsored the UN Security Council Resolution 1373, calling on all UN members to criminalize the provision of funds to all terrorists, effectively denying terrorists safe financial haven anywhere.

- On October 5, 2001, the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, redesignated 25 terrorist organizations (including al-Qaeda) as foreign terrorist organizations pursuant to the Antiterrorism and Effective Death Penalty Act of 1996. Giving material support or resources to any of these foreign organizations is a felony under U.S. law.

On October 12, the U.S. added 39 names to the list of individuals and organizations linked to terrorism or terrorist financing under E.O. 13224.

On October 26, the U.S. enacted the USA PATRIOT Act, which significantly expanded the ability of U.S. law enforcement to investigate and prosecute persons who engage in terrorist acts. It expands the scope of U.S. regulations against money laundering by requiring securities brokers and dealers to file suspicious activity reports and it gives new power to act against money laundering havens. The PATRIOT Act also expands the President's powers to confiscate property under the International Emergency Economic Powers Act (IEEPA) when the U.S. is engaged in armed hostilities or has been attacked.

On October 29, the U.S. created a Foreign Terrorist Tracking Task Force aimed at denying entry into the U.S. of persons suspected

of being terrorists and locating, detaining, prosecuting and deporting terrorists already in the U.S.

On November 2, the U.S. designated 22 terrorist organizations located throughout the world under E.O. 13224, thus, highlighting the need to focus on terrorist organizations worldwide.

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**In response to the attacks of 11 September, the early combat operations that took place on 7 October 2001 to include a mix of strikes from land-based B-1 Lancer, B-2 Spirit and B-52 Stratofortress bombers, carrier-based F-14 Tomcat and F/A-18 Hornet fighters, and Tomahawk cruise missiles launched from both U.S. and British ships and submarines signaled the start of Operation Enduring Freedom – Afghanistan (OEF-A).**

**The initial military objectives of OEF-A, as articulated by Former President George W. Bush in his 20 September Address to a Joint Session of Congress and his 7 October address to the country, included the destruction of terrorist training camps and infrastructure within Afghanistan, the capture of alQaeda leaders, and the cessation of terrorist activities in Afghanistan.**

## Afghanistan

### History of Afghanistan

Afghanistan is a country with a population of approximately 30 million people. It is predominantly a Muslim country and is very ethnically diverse. The major ethnic groups in Afghanistan include the Pashtuns (who make up around half the population of Afghanistan), Tajiks, Hazaras, Uzbeks and Turkmen. The country was invaded in 1979 by the Soviet Union, after they believed that the Afghan elite was becoming increasingly close to the Americans and drifting away from the Soviets. The war began at a time when revolutions were taking place across Afghanistan. That war went on for just under 10 years, and resulted in the defeat of the Soviet Union and victory for the Taliban, and the Afghan resistance movement as a whole. The Taliban was an Afghan resistance movement that came into being during the Soviet invasion as a direct response to the invasion. It was funded by the US and Pakistan and was made up mainly of ethnic Pashtuns. The need for a resistance group was necessary in Afghanistan, as the Afghan army had been funded and trained by the Soviets and was in place to serve their interests. After the

Soviet invasion came to an end, Afghanistan continued to face an uncertain future and was still riddled with instability. This was due to the civil war that broke out in the country in the late 1980s which intensified in 1992, after the government of Afghan President Mohammad Najibullah was toppled. The war itself went on for over a decade and resulted in the deaths of approximately 400,000 Afghans. After the Taliban seized control of Kabul a group known as the Northern Alliance formed. This group consisted mainly of Afghan minorities of Central Asian descent and was funded primarily by Iran.

## **Non-state actors in Afghanistan**

There is no consensus as to the size and structure of Armed Non State Actors(ANSAs) in Afghanistan, or as to the nature of the relationships between them. The Taliban emerged in the early 1990s in northern Pakistan amid the violence that followed the withdrawal of Soviet troops from Afghanistan. From their initial sphere of influence in south-western Afghanistan, they quickly extended their control over the rest of the country. In September 1996, they captured the Afghan capital, Kabul; by 1998, they were in control of almost 90% of Afghanistan. As of 13th November, 2011 Pakistan, Saudi Arabia, and the United Arab Emirates are the only three states that recognize the Taliban as the legitimate government in Afghanistan.

## 'Operation Enduring Freedom'

The invasion of Afghanistan took place on the 7th of October 2001, and was called 'Operation Enduring Freedom' by the United States Government. The US Government claimed that the invasion was in retaliation to the 9/11 terrorist attacks in New York and Pennsylvania. The main reason the invasion took place was because the US felt that it could eradicate Al-Qaeda and its support network within the Taliban through military action. The US claimed that it needed to get troops on the ground in Afghanistan, as Afghanistan refused to comply when asked to hand over terrorists that had sought refuge there. These were terrorists that the US believed played a major role in the 9/11 attacks. However, it should be noted that no terrorist organisation claimed responsibility for the 9/11 attacks, even if some may have sympathised with the act itself. In reality, the chief spokesperson of the Taliban at the time of the attacks, Wakeel Ahmed Mutawakel, and the Taliban ambassador to Pakistan, Mullah Abdul Salam Zaeef, both condemned the attacks and did not claim responsibility for them on the part of the Taliban or Al Qaeda.

Since the founding of the United Nations in 1945, international law with regard to war has been defined by the UN Charter. Measured by this standard, the US-led war in Afghanistan has been illegal from the outset. First, according to international law as codified in the UN Charter, disputes are to be brought to the UN Security Council, which alone may authorize the use of force. Without this authorization, any military activity against another country is illegal. Second, there are two exceptions: One is that, if your nation has been subjected to an armed attack by another nation, you may respond militarily in self-defense. This condition was not fulfilled by the 9/11 attacks, however, because they were not carried out by another nation: Afghanistan did not attack the United States. Indeed, the 19 men charged with the crime were not Afghans. The other exception occurs when one nation has certain knowledge that an armed attack by another nation is imminent – too imminent to bring the matter to the Security Council. The need for self-defense must be, in the generally accepted phrase, “instant, overwhelming, leaving no choice of means, and no moment for deliberation.” Although the US government claimed that its military operations in Afghanistan were justified by the need to prevent a second attack, this need, even if real, was clearly not urgent, as shown by the fact that the Pentagon did not launch its invasion until almost a month later. However, the language of “all necessary steps” is from UN Security Council Resolution 1368, in which the Council, taking note of its own “responsibilities under the Charter,” expressed its own readiness “to take all necessary steps to respond to the terrorist attacks of 11 September 2001. Resolution 1373, the only other Security Council resolution about this issue, laid out various responses, but these included matters such as freezing assets, criminalizing the support of terrorists, exchanging police

information about terrorists, and prosecuting terrorists. The use of military force was not mentioned.

## Legality of Operation Enduring Freedom

An important fact that needs to be considered when assessing the legality of the war in Afghanistan is the fact that the 9/11 attacks were a one-off, isolated incident and were not part of a continuation of attacks on the US and American civilians. In relation to this point, was there really a need for such an aggressive response to the 9/11 attacks? It can indisputably be argued that this war was not legal under international law, as the criterion that needs to be fulfilled in order for a war to be conducted legally is UN Security Council authorization. In this instance no such authorisation was given to the US, the UK or any other NATO member.

Additionally, the US' claim in relation to Article 51 of the UN Charter which deals with selfdefence, namely that it had a right to the use of force against Afghanistan after the 9/11 terrorist attacks, is unfounded. The notion of preventative self-defence or retaliatory selfdefence has no basis under international law. The US' rationale as justification for the invasion has two major issues of contention, the first being that the country it wanted to attack was not the main base of Al Qaeda and the second being that the US is a sovereign state attempting to fight an organisation which has never claimed to have links to the Afghan establishment. Therefore, in accordance with the US' thought process, the country that should have been pursued was Saudi Arabia. As noted earlier, this is because Saudi Arabia was funding Al Qaeda and allowed for it to operate within its borders without any difficulties. Furthermore, Afghanistan had no direct link to 9/11 in the way that Saudi Arabia did, as none of the 9/11 terrorists were Afghan nationals but some were Saudi nationals.

***For better understanding of legality of any war, reading this document is imperative for the delegates-***

`'http://assets.cambridge.org/97805217/93445/sample/9780521793445ws.pdf'`

## Self-Defense

There are two main legal bases for self-defense in international law: historic international law and the U.N. Charter. Before discussing either, it is important to understand the nature of the enemy in Afghanistan. The former Taliban government of Afghanistan was not only comprised of a different group of people than al Qaeda, but they were also a different type, as they were the government of a state. Members of al Qaeda know no borders and are bonded by a message of hatred of a singular enemy (the West), and not by territory, like the Taliban. It is generally (though not universally) accepted within the international community that in the beginning, October 2001, the Taliban was sufficiently intertwined with al Qaeda to warrant America's self-defense against both actors as a result of 9/11.



Yet, it was al Qaeda who was responsible for the 9/11 attacks. This raises an important question: can a state invade another state, claiming self-defense, if that state never attacked it? What if a state only harbors a group responsible for attacks? Another important point to be considered by the delegates is that the present situation in Afghanistan has drawn comparisons to the Nicaraguan situation of the mid-1980s. In fact, the Nicaragua case is the touchstone for much modern analysis of the concept of self-defense. In 1986, Nicaragua sued the United States, claim that it was liable for the actions of the Contras against the Sandinista government in Nicaragua. Specifically, Nicaragua claimed that "by funding, equipping, supplying, and training the Contras, who then carried out attacks within Nicaragua, the US had illegally used force against Nicaragua and was responsible for all the actions of the Contras." The International Court of Justice (ICJ) rejected Nicaragua's claim that the United States was responsible for the Contras' actions because "to give rise to legal responsibility of the United States, it would in principle have to be proved that that State had effective control of the military or paramilitary operations in the course of which the alleged violations were committed."

Hence, under that standard, the attack on the World Trade Center and the Pentagon can hardly be qualified as an armed attack on the part of Afghanistan against the United States

There are two main origins for self-defense under international law. First, "[i]n 1837, US Secretary of State Daniel Webster articulated a definition of self-defence, which evolved into customary international law." This definition arose from the Caroline case, in which British forces destroyed a U.S. vessel, the Caroline, while it attempted to deliver goods to Canadian insurgents. The British shot at the Caroline and set it on fire.

Webster declared that Britain's actions did not constitute legal self-defense, which was only justified if the "necessity of [that] self-defense [is] instant, overwhelming, leaving no choice of means, and no moment for deliberation.

Since the mid-nineteenth century, the Caroline Doctrine has been one basis for which states can rely upon self-defense as a use of force under international law. By the mid-twentieth century, however, World War II and Hitler's advancement throughout Europe brought new changes to the international legal landscape. The United Nations was born in 1945 and with it came another, narrower, concept of self-defense under Article 51 of the U.N. Charter.

Thus, it appears that continued military involvement in another state can only be allowed if the invading state remains under attack, or, under the Caroline doctrine, under such imminent threat of attack that there is no time for deliberation. Such is not the case for the United States in Afghanistan.<sup>55</sup> Without legitimate approval and authority from Afghanistan, America's continued involvement in Afghanistan amounts to nothing more than a giant—and illegal—military reprisal.

## Current Situation in Afghanistan

### Applicable International Law

Armed conflict in Afghanistan is currently governed by the customary and treaty rules applicable to armed conflicts of a non-international character. The two sets of treaty rules generally applicable to such conflicts are Article 3 common to the four Geneva Conventions (Common Article 3) and the Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of Non-International Armed Conflicts

(Additional Protocol II). As of 13 November, 2011, Afghanistan has only signed the four Geneva Conventions and not adhered to the two additional protocols.

Common Article 3 does not deal directly with the conduct of hostilities. It seems, at first sight, only to protect the victims of such conflicts. However, a close reading of the text of the article leads to the conclusion that it does more than that. For example, the principle of civilian immunity can be inferred from paragraph 1, which prohibits violence to the life of persons taking no active part in hostilities. For Common Article 3 to apply there must be an 'armed conflict not of an international character occurring in the territory of one of the High Contracting Parties'.

To what extent Common Article 3 directly addresses ANSAs has been debated. The article states that 'each Party to the conflict shall be bound to apply, as a minimum' its provisions. It has sometimes been claimed that the term 'each Party' does not apply to ANSAs, even though they may meet the criteria for being a party to the conflict, but only to government armed forces. Suffice to acknowledge that, although the legal reasoning to sustain this conclusion remains unsettled, it has now become uncontroversial, even 'commonplace', that ANSAs are bound by international humanitarian law.

### **Customary International Law applicable**

Whether or not Additional Protocol II is applicable to some or all of the parties to the conflict in Afghanistan, it is not contested that customary international humanitarian law is applicable to government and international armed forces, as well as to all armed non-state actors that meet the necessary criteria. That being said, perhaps the main problem of customary international humanitarian law is that it does not sufficiently take into account

the practice and opinio juris of ANSAs but only those of states for its formation. Despite these uncertainties, one can safely assert that, in addition to the customary law provisions of Common Article 3, the rules regulating the conduct of hostilities such as the principles of distinction and proportionality, the rules regulating the conduct of hostilities such as the principles of distinction and proportionality, and the prohibition of perfidy or precaution in attack are also a part of customary International Law.

## Notes

Delegates should carefully read both:-

- [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1368\(2001\)2](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1368(2001)2)
- [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1373\(2001\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1373(2001))

Delegates should focus more on the –

- 1) Legality of 'Operation Enduring Freedom' on notions of 'SelfDefense'
- 2) Possible deeper causes of events like September 11 attacks
- 3) Repercussions of 'Operation Enduring Freedom' in Afghanistan and World Peace
- 4) De-facto and De-jure regime in Afghanistan.