ICJ: US Live Fire Training Maritime Dispute (South China Sea) China vs. US

Hello delegates! My name is Janae Huynh, and I'll be your head chair in the International Court of Justice committee for the Mission Viejo High School's 2018 MUN conference. I am currently a junior and have been doing MUN for 3 years. I am in the International Baccalaureate Program and participate in a numerous amount of clubs at school such as CSF, NHS and Key Club. I have been playing the piano for approximately 11 years, however can still not play well, and used to swim competitively for 4 years when I was younger. On the weekends, I enjoy getting food like sushi and calamari, as well as going to the beach whenever I can, and on special occasions, I like to go to concerts, but lack the money to do so. I am currently engulfed in heavy loads of schoolwork and homework but am very ecstatic to be your head chair this year for Mission's conference!

I. Background:

Note: This is NOT an actual case of the ICJ. When writing resolutions, you may consider possible rulings which may arise, but be sure to present your own ideas. We will be presenting you with new witnesses and the case may take a turn away from expected results. YOU have the power to decide how this case proceeds.

The United States Navy train many of their naval soldiers in the South China Sea, where they practice in live firing and other tactics. The naval soldiers go out to the South China Sea to practice live fire exercises to test elements of an integrated defense and test their ability to track and destroy enemy anti-ship missiles. Many of these exercises include anti-ship missiles and torpedoes, air-to-air and air-to-surface, guns, and bombs. Naval ships use these training sessions to experiment and fire new missiles and different versions of them.

In the past, there have been no issues with the United States navy soldiers live firing in the South China Sea. However, recently, there have been claims that the US navy soldiers have been firing too close to Chinese territory and borders. Witnesses such as a man fishing in the South China Sea and tourists and people at the beach have stated that they have seen the US navy ships facing the Chinese border and purposely aiming their missiles and torpedoes towards China, rather than aimlessly firing. The Chinese sees this live firing of missiles and shooting as a threat, because the United States' soldiers are miscalculating the missile's range and firing too close to China's border where lives are being affected with the consequences of the missiles after they have been released. The admiral of the naval ship, USS Constitution, that was being accused of threatening China's borders and territories, was Admiral James G. Foggo III. who firmly states that his soldiers were just doing their traditional training and firing rounds and that they had no intentions of threatening China in any way shape or form. China argues that Admiral James G. Foggo III. intentionally fires towards the Chinese border in order to threat them to prevent further disputes of

the territorial claims in the South China Sea because of the already strained relationship between the two countries.

The Chinese have taken this action of violence and interpreted it as a threat towards China, causing them to take precautions towards the United States for defense. The Chinese government and president, Xi Jinping enforced protection of China's borders by immediately setting up military troops along the borders of China and setting out armed naval ships in the South China Sea to protect themselves against United States naval live firing. The government of China are also making attempts towards kicking the United States out and revoking their ability to practice firing missiles and torpedoes and training in the South China Sea due to the concerns it raises towards the Chinese people. The US responds to China by stating how their ships and soldiers were not aiming for the Chinese borders but were just aimlessly firing with no intention of threatening China, as well as arguing technically where China claims their territories in the South China Sea, due to the dispute of territorial claims in the South China Sea between China, Taiwan, Vietnam, Philippines, Indonesia, Malaysia, and Brunei. The United States also brings up the point of the South China Sea being international waters so China has no right to attempt to kick the United States navy out of fire training in the sea because it is not theirs to own in the first place. However, the Chinese do have a right to be worried if the Americans are planning an attack or strike on Chinese territory due to previous conflicts and the tensions rising due to the South China Sea dispute.

II. Plaintiff

It is undeniable that the US poses a threat to China, with its constant military tests on the border. A Chinese fisher claimed to've specifically seen the U.S.'s missiles aiming towards China, meaning it was no accident when their missiles went flying too far towards the coast. Despite China's lack of evidence on the basis of it being "purposeful," America should still be banned from continuing their system. This is because, whether or not it was incoherent or on purpose, China was still put in a dangerous situation. While it is true America has been using the practice for a while, stating, it "hasn't been a problem," it suddenly is a hazard for the citizens of China, and therefore, must be changed. Even though there are still disputes on if China fully owns the South China Sea, they regulate things like trade in the area, meaning, they should be allowed to control whether or not America is allowed to practice by the border. America should use their own territory to test their weapons, and should no longer contain the power to be a threat to China. If it seems as though the weapons are still an intimidation, China will fire for safety, believing America is trying to harm their country. America needs to discontinue their alarming actions in order to maintain peace between the two countries.

III. Defendant

The United States of America stresses that they were not purposely aiming towards the Chinese border and had no means of using live fire training as a threat. They never had any intentions of endangering the Chinese lives. They defend themselves by stating that the naval

soldiers were following Admiral James G. Foggo III.'s orders and demands as well as following protocols and did not harm nor put anyone in harm whatsoever. They also argue that the Chinese has no ability or right to take the US Navy's ability to train in the South China Sea, due to it being international waters and China has no official claims towards it because of the current disputes concerning the territorial claims. The United States also claims that it the Chinese have no legal proof and evidence on whether or not Admiral Foggo III and his training naval soldiers were aiming and shooting towards China and their motives for it. The South China Sea is a vital for US missile training and would not be cost effective or efficient to ban the Americans from their live firing and navy training.

IV. Questions to Consider

1. For what reasons would the United States would be aiming to China's border for?
2. Why would China believe that the US were firing towards them for?
3. What would China gain from winning this case? What would the US lose?
4. How does the issue of the South China Sea territorial claims dispute play a role/affect this case?
5. Do the Chinese see the act of live firing training of the US naval ships as a threat or the US naval ships in general as the threat?

V. Possible Witnesses:

Note – Not all of these witnesses are real. These witnesses are relevant to the case, but may or may not exist in real life. More witnesses will be interviewed in committee.

1. Admiral James G. Foggo III.
2. United States Naval Soldiers
    a. Charles Richardson
    b. Gillespie Williams
    c. Dean Lindquist
3. Chinese witnesses
4. Chinese naval officer

VI. Works Cited:

- https://en.wikipedia.org/wiki/Live_fire_exercise
- https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide

ICJ : Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)

Hi! My name is Katherine Lucero and I will be your vice chair at the MVHS MUN 2018 conference. I am a currently a sophomore and this will be my second year in the MUN program here at Mission. I am apart of a club called Hospital Helpers. Outside of MUN, I like going out with friends, going on adventures and trying new things. Also, I enjoy spending my free time volunteering at church. I look forward seeing all of you in committee and hope you have fun!

I. Background

Note: This is an actual case of the ICJ. When writing resolutions, you may consider the rulings of the actual case, but be sure to present your own ideas. Your ruling and opinion does not have to be the same as the official ruling; we will be presenting you with new witnesses and the case may take a turn away from the case that proceeded in the actual ICJ. YOU have the power to decide how this case proceeds.

Japan had begun their scientific whaling research in 1987 with the Japan Whale Research Program under Special Permit in the Antarctic, also known as JARPA. By justifying their motives for whaling in the Antarctica, they argue that most whale species are not endangered and that eating whale meat is a part of their culture. However, in 1997, the International Whaling Commission (IWC) committee, they voted on Japan to suspend their lethal research on whales. Starting in 2005, Japan was allowed another "scientific research" program called "The Second Phase of Japanese Whale Research Program" (JARPA II) under a special permit that enabled them to continue whaling research in the Antarctic. JARPA II research purposes claimed to try to monitor the Antarctic ecosystem, observing and modeling the competition among the different whale species and future management objectives to ensure protection of the ecosystem, explain the changes in an ecosystem and stock structure, and improving management processes for the Antarctic minke whales.

The government of Australia highly disagrees with the Japanese whaling in the Antarctic and accused them of violating obligations under the "1946 International Convention for the Regulation of Whaling" as well as other international responsibility that concerns preserving marine mammals and ecosystems. The Australian government brought the case against Japan at the International Court of Justice regarding JARPA II, their special permit program that authorizes whaling in the Antarctic, on May 31, 2010. The ICJ delivered their judgement on March 31, 2014, allowing trial to commence because they believed that there was enough jurisdiction in the case to proceed.

ICJ examined and questioned the interpretation of Article VIII of the 1946 Convention, which clearly states how parties are able to "grant to any of their nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research". The court observed and came to the conclusion that the special permit that is granted to a nation or state must

be explicitly for scientific purposes and cannot be solely dependent on the state's perception, meaning other nations should be aware of their research. They considered JARPA II as a scientific research program however the ICJ had to investigated JARPA II's lethal methods and decide whether or not it was reasonable to their scientific research and purposes. In the end, ICJ ruled that the special permits that were issued by Japan for the killing and treating of whales for JARPA II were not given for scientific reasons and did not support their research whatsoever. As a result, Japan had to shut down JARPA II, ordering them to revoke any remaining authorization, permit, or license that allows them to kill, take, or treat whales, as well as stop granting other permits.

II. Plaintiff

Attorney general Mark Dreyfus QC represented Australia's hearing in the International Court of Justice and asserts that Australia's views on whaling are very well known, highly condemning all commercial whaling, including Japan's "scientific whaling". The Australian Government's decision to bring this legal action demonstrates Australia's determination on ending commercial whaling. Japan's large scale whaling project is a serious breach of the obligations Japan assumed under the 1946 International Convention for the Regulation of Whaling (ICRW), as well as numerous other international obligations for the protection of marine animals and environment. Japan has also breached the moratorium on commercial whaling, the moratorium on factory ships, and the prohibition on whaling in the Southern Ocean Sanctuary. Japan's defense is Article VIII, paragraph 1 of the 1946 ICRW, which states that the parties may "grant to any of [their] nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research". While JARPA II is broadly described as a "scientific research program", this title does not include the lethal methods Japan has used. We want Japan to revoke any permit, authorization, or license to kill whales, and to refrain from giving out any other permits under Article VIII, paragraph 1 of the 1946 ICRW.

III. Defendant

Japan should be allowed to continue whaling, as long as the animals are not endangered. According to the American Cetacean Society, "the global population of minke whales stands at more than 1 million." This means that hunting them will have no negative impact ecologically, whether or not they are being eaten or used for scientific research. JARPA's (Japanese Whale Research Program) main intention was to create a better ocean environment by monitoring the populous of the whales. If they stopped monitoring, it is quite possible it could ruin the food chain- with too many hungry whales swimming freely. Some may believe it is simply unethical to kill whales, and claim it should be legally banned. However, Japan should be *legally* permitted to (not subjectively obligated to) continue whaling, since other countries are allowed to continue using animals as food production and for scientific experiments. Many think that whales are too intellectually developed to use for research. Yet, America has been allowed to test on animals such as monkeys for psychological research. It is only fair that Japan has the same *legal rights* as other

countries. Then, they can decide whether or not the want to continue partaking in the process of whaling. Japan is willing to negotiate and discuss better methods to improve the whaling service. However, to completely ban Japan's whaling tradition simply poses no benefits to any country, including Australia.

IV. Questions to Consider:

1. What would Australia gain from this case? What would Japan lose?
2. To what extent is whaling ethically immoral? Is it considered bad even for scientific research and reasoning?
3. Can a program, such as whaling, which uses lethal methods, be considered "scientific" research" in line with the object and purpose of the International Convention for the Regulation of Whaling?

V. Possible Witnesses:

1. Lars WallØe
2. Nick Gales
3. Marc Mangel
4. Possible scientists and researchers
    a. Ecologist
5. Japanese head of whaling

VI. Works Cited:

- https://www.theguardian.com/environment/2015/nov/29/australia-slams-japans-decision-to-resume-antarctic-whaling
- http://www.icj-cij.org/en/case/148
- https://www.cambridge.org/core/journals/international-legal-materials/article/whaling-in-the-antarctic-australia-v-japan-new-zealand-intervening-icj/611D71EF35823E3D5162B25193301003
- https://iwc.int/permits