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## STUDY GUIDE

# KIIT INTERNATIONAL E-MUN

## UNITED NATIONS GENERAL ASSEMBLY- SPECIAL POLITICAL AND DECOLONIZATION COMMITTEE

**AGENDA** - Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

## EXECUTIVE NOTE

Greetings Delegates,

It is an honor to be serving as a part of the Executive Board at the UNITED NATIONS GENERAL ASSEMBLY- SPECPOL. Please consider that the following guide, as the name suggests, is merely to provide you with the background of the agenda and cannot serve as the credible source of information. Your real research lies beyond this guide and we hope to see some strong content and debate come our way. The agenda at hand is vast and complex and a successful discussion on it would entail the collective participation of all of you. It shall be your prerogative to decide the direction in which you want to take this committee. The background guide is designed to help everyone to understand the basic things about the agenda and we strongly recommend that you research on various things on your own. We also suggest understanding how various rights get affected (legally). If you are doing an MUN for the very first time, we expect you to read the UN Rules of Procedure or watch videos online on YouTube about conduct at MUNs. Rest, the same aspect for research applies to you too. Do not feel taken aback on the research, foreign policy and other details of the allotted country. Take the initiative to research properly. PLEASE DO READ THE GUIDE. While it is a clear agenda, it still is open to interpretations and there shall be no direction of debate that shall be provided by the Executive Board. Delegates are required to direct the council at all stages, unless stagnation occurs. The agenda of an MUN is a beautiful experience and is not as difficult as it may seem. We hope to see a great level of effort and enthusiasm from you all, so that we all can take back a great experience. This Background has been created weeks prior to the conference and it is in best interest to stick to Reuters/CNN/BBC/UN News and documents to find more after you have researched. Do research the updated information on various news agencies. Feel free to contact any member of the executive board in case of any doubt or enquiry.

Happy Researching!

Regards,  
**Executive Board**



## ABOUT THE COMMITTEE

United Nations General Assembly, one of the six principal organs of the United Nations (UN) and the only body in which every member of the organization is represented and allowed to vote. The first session of the assembly convened on Jan. 10, 1946, in London, with 51 countries represented. As of 2006 there were 192 members of the General Assembly. Numerous nonmembers, such as states, organizations, and other entities (e.g., the Vatican, the African Union, the International Committee of the Red Cross, and Palestine), maintain observer status, enabling them to participate in the work of the General Assembly.

The General Assembly exercises deliberative, supervisory, financial, and elective functions relating to any matter within the scope of the UN Charter. Its primary role, however, is to discuss issues and make recommendations, though it has no power to enforce its resolutions or compel state action. Other functions include admitting new members; selecting members of the Economic and Social Council, the nonpermanent members of the Security Council, and the Trusteeship Council; supervising the activities of the other UN organs, from which the General Assembly receives reports; and participating in the election of judges to the International Court of Justice and the selection of the secretary-general. Decisions usually are reached by a simple majority vote. On important questions, however—such as the admission of new members, budgetary matters, and peace and security issues—a two-thirds majority is required.

The General Assembly convenes annually and in special sessions, electing a new president each year from among five regional groups of states. At the beginning of each regular session, the General Assembly also holds a general debate, in which all members participate and may raise any issue of international concern. Most work, however, is delegated to six main committees, known as (1) Disarmament and International Security, (2) Economic and Financial, (3) Social, Humanitarian, and Cultural, (4) Special Political and Decolonization, (5) Administrative and Budgetary, and (6) Legal. (Committees are generally referred to by their number; thus, the Disarmament and International Security Committee is known as the First Committee).

The Special Political and Decolonization Committee (Fourth Committee) considers a broad range of issues covering a cluster of five decolonization-related agenda items, the effects of atomic radiation, questions relating to information, a comprehensive review of the question of peacekeeping operations as well as a review of special political missions, the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), the Report of the Special Committee on Israeli Practices and International cooperation in the peaceful uses of outer space. In addition to these annual items, the Committee also considers the items on Assistance in mine action, and University for peace biennially and triennially respectively.

# INTRODUCTION

The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. They protect people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war). The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects. They specifically protect people who are not taking part in the hostilities (civilians, health workers and aid workers) and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all breaches. They contain stringent rules to deal with what are known as "grave breaches". Those responsible for grave breaches must be sought, tried or extradited, whatever nationality they may hold.

## The 1949 Geneva Conventions

- **The first Geneva Convention protects wounded and sick soldiers on land during war**  
This Convention represents the fourth updated version of the Geneva Convention on the wounded and sick following those adopted in 1864, 1906 and 1929. It contains 64 articles. These provide protection for the wounded and sick, but also for medical and religious personnel, medical units and medical transports. The Convention also recognizes the distinctive emblems. It has two annexes containing a draft agreement relating to hospital zones and a model identity card for medical and religious personnel.
- **The second Geneva Convention protects wounded, sick and shipwrecked military personnel at sea during war**  
This Convention replaced Hague Convention of 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention. It closely follows the provisions of the first Geneva Convention in structure and content. It has 63 articles specifically applicable to war at sea. For example, it protects hospital ships. It has one annex containing a model identity card for medical and religious personnel.
- **The third Geneva Convention applies to prisoners of war. This Convention replaced the Prisoners of War Convention of 1929**  
It contains 143 articles whereas the 1929 Convention had only 97. The categories of persons entitled to prisoner of war status were broadened in accordance with Conventions I and II. The conditions and places of captivity were more precisely defined, particularly with regard to the labour of prisoners of war, their financial resources, the relief they receive, and the judicial proceedings instituted against them. The Convention establishes the principle that prisoners of war shall be released and repatriated without delay after the cessation of active hostilities. The Convention has five annexes containing various model regulations and identity and other cards.

- **The fourth Geneva Convention affords protection to civilians, including in occupied territory**

The Geneva Conventions, which were adopted before 1949, were concerned with combatants only, not with civilians. The events of World War II showed the disastrous consequences of the absence of a convention for the protection of civilians in wartime. The Convention adopted in 1949 takes account of the experiences of World War II. It is composed of 159 articles. It contains a short section concerning the general protection of populations against certain consequences of war, without addressing the conduct of hostilities, as such, which was later examined in the Additional Protocols of 1977. The bulk of the Convention deals with the status and treatment of protected persons, distinguishing between the situation of foreigners on the territory of one of the parties to the conflict and that of civilians in occupied territory. It spells out the obligations of the Occupying Power vis-à-vis the civilian population and contains detailed provisions on humanitarian relief for populations in occupied territory. It also contains a specific regime for the treatment of civilian internees. It has three annexes containing a model agreement on hospital and safety zones, model regulations on humanitarian relief and model cards.

### **Common Article 3**

Article 3, common to the four Geneva Conventions, marked a breakthrough, as it covered, for the first time, situations of non-international armed conflicts. These types of conflicts vary greatly. They include traditional civil wars, internal armed conflicts that spill over into other States or internal conflicts in which third States or a multinational force intervenes alongside the government. Common Article 3 establishes fundamental rules from which no derogation is permitted. It is like a mini-Convention within the Conventions as it contains the essential rules of the Geneva Conventions in a condensed format and makes them applicable to conflicts not of an international character:

- It requires humane treatment for all persons in enemy hands, without any adverse distinction. It specifically prohibits murder, mutilation, torture, cruel, humiliating and degrading treatment, the taking of hostages and unfair trial.
- It requires that the wounded, sick and shipwrecked be collected and cared for.
- It grants the ICRC the right to offer its services to the parties to the conflict.
- It calls on the parties to the conflict to bring all or parts of the Geneva Conventions into force through so-called special agreements.
- It recognizes that the application of these rules does not affect the legal status of the parties to the conflict.

Given that most armed conflicts today are non-international, applying Common Article 3 is of the utmost importance. Its full respect is required.

# Where do the Geneva Conventions apply?

## States Party to the Geneva Conventions

The Geneva Conventions entered into force on 21 October 1950. Ratification grew steadily through the decades: 74 States ratified the Conventions during the 1950s, 48 States did so during the 1960s, 20 States signed on during the 1970s, and another 20 States did so during the 1980s. Twenty-six countries ratified the Conventions in the early 1990s, largely in the aftermath of the break-up of the Soviet Union, Czechoslovakia and the former Yugoslavia.

Seven new ratifications since 2000 have brought the total number of States Party to 194, making the Geneva Conventions universally applicable.

## The Additional Protocols to the Geneva Conventions

In the two decades that followed the adoption of the Geneva Conventions, the world witnessed an increase in the number of non-international armed conflicts and wars of national liberation. In response, two Protocols Additional to the four 1949 Geneva Conventions were adopted in 1977. They strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts and place limits on the way wars are fought. Protocol II was the first-ever international treaty devoted exclusively to situations of non-international armed conflicts.

## Applicability of Fourth Geneva Convention

War of 12 August 1949, and relevant provisions of customary law, including those codified in Additional Protocol to the four Geneva Conventions, Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and the relevant reports of the Secretary General, Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations, Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice, and also recalling General Assembly resolution.

Since the Peace of Westphalia in 1648, the international system has witnessed countless armed conflicts, all of which have had devastating impacts on the societies enmeshed in them. As the European state system evolved over the course of the seventeenth, eighteenth, and nineteenth centuries, recourse to war was widely considered a legitimate tool of statecraft. It is with civilian populations subject to foreign military occupation that this Article is chiefly concerned.

The atrocities perpetrated against the populations of occupied Europe during World War II accounted for the high civilian casualty rate in that war. In the territories occupied by Nazi Germany "millions of human beings were torn from their homes, separated from their families and deported" to death and slave labor camps, while their unguarded property was either looted or destroyed. In the wake of what emerged as one of the most horrific episodes in human history," representatives of almost every established State met in Geneva in 1949 to sign revised conventions intended to cope with the effects of the new phenomenon of total.

It concerns the implementation of international humanitarian law, that branch of law that has recently assumed an ever-growing prominence, as an expression of our generation's ideal of the rule of law in international relations. This article was written in a year of historic celebrations. Let us remember that the year 1999 marked the centenary of the first Hague Peace Conference, which began a long ongoing process of outlawing destructive deadly weapons while setting up the first institution for peaceful settlement of disputes. It was also the fiftieth anniversary of the signing of the four Geneva Conventions, which laid down a set of universal rules for humane conduct in armed conflict. And lastly, it marked the anniversary of the Convention of the Rights of the Child that combines articles of human rights with provisions of international humanitarian law.

Taking note of the recent reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 and other relevant recent reports of the Human Rights Council, Stressing the urgent need for efforts to reverse the negative trends on the ground and to restore a political horizon for advancing and accelerating meaningful negotiations aimed at the achievement of a peace agreement that will bring a complete end to the Israeli occupation that began in 1967 and the resolution of all core final status issues, without exception, leading to a peaceful, just, lasting and comprehensive solution of the question of Palestine, Noting the accession by the State of Palestine to several human rights treaties and the core humanitarian law conventions, and its accession on 2 January 2015 to the Rome Statute of the International Criminal Court, Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice, Noting in particular the Court's reply, including that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime are contrary to international law, Reaffirming the principle of the inadmissibility of the acquisition of territory by force, and deeply concerned at the fragmentation of the Occupied Palestinian Territory, including East Jerusalem, through the construction of settlements, settler roads, the wall and other measures that are tantamount to de facto annexation of Palestinian land, Emphasizing the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and reaffirming the obligation of the States parties to the Fourth Geneva Convention under articles 146, 147 and 148 with regard to penal sanctions, grave breaches and responsibilities of the High Contracting Parties and to ensure respect for international humanitarian.

The signing of the Fourth Geneva Convention in 1949 was a major breakthrough that culminated long efforts over the years to ensure a better protection for the civilians in times of war. And while the Convention, which has now been ratified by 188 states, has received universal recognition, its observance and implementation is still lacking, since serious violations of its provisions have become common practice in many conflicts.

A major problem facing implementation stems from the frequent refusal of the occupying power to acknowledge that definition, thereby contesting its obligation to apply the convention. The main aim of the convention resides in alleviating human suffering caused by conflict. According to Article Four of the Fourth Geneva Convention "Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."



While lengthy legal debate over the applicability of the convention is politically important, it should nevertheless be minimized, in order to terminate the possibility of any deviation from the basic rules of the convention and humanitarian law altogether, by the occupying power. Instead, efforts should be centered on the practical problems arising from occupation or the threat of occupation, in the hope of adopting practical steps for the early resolution of the problem and this allows no change under the convention in the legal status of the territory or the continued normal life of its inhabitants in accordance with their laws, culture, and traditions. However, the most effective way to bring about an end to any violations of the applicable rules of international humanitarian law is to deal with the underlying issues of the conflict, thus bringing about an end to that occupation. But let us add in all candor that any success in settling such issues, such as the applicability of the convention, practical problems of the occupation and the underlying conflict, depend on two things.

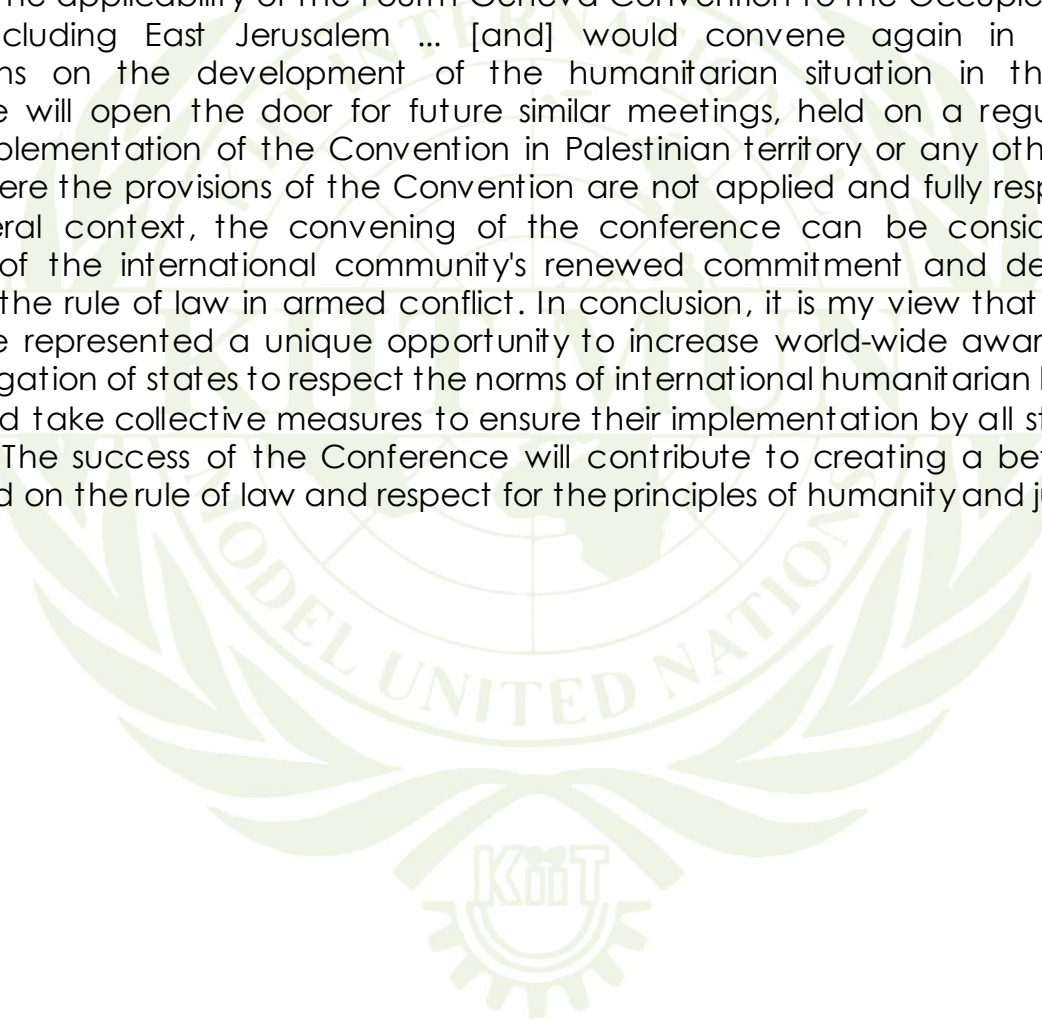
First, on the cooperation and good will of the parties concerned, and second, on the international community's readiness, will and ability to adopt a clear and firm position vis-à-vis the recalcitrant party.

In assessing the effectiveness of the mechanism provided under the Fourth Convention for implementation of its provisions, we cannot but express consternation over the fact that the role contemplated for the Protecting Powers and the International fact-finding Commission has virtually remained dead letter. Will the newly created International Criminal Court witness a similar fate? As a general rule, the activation of these bodies to accomplish their task depends on the political and practical support they receive from the international community. The difficulty in implementing the Protecting Power mechanism owing to the lack of consent of a party to the conflict could be overcome by granting the ICRC, well known for its neutrality and impartiality, the necessary mandate to play the role of substitute. Either formally as provided in the convention, or informally, in that formal acceptance is difficult to achieve. Likewise, the International fact-finding Commission's role could be revived by inducing more states to formally recognize its competence, or alternatively to grant their consent for its role in any given situation. And this task of fact-finding can be supplemented by humanitarian missions undertaken by United Nations ad hoc bodies. A unique feature of the four Geneva Conventions and their additional Protocols lies in the collective responsibility of the parties. The parties have undertaken to implement such responsibility through a common goal in which "to respect and to ensure respect for the Convention in all circumstances." It underscores the particular legal nature of the conventions, their universality and the essential value of the body of humanitarian law they incorporate.

The carrying out of this solemn obligation entails, in our opinion, concrete action of the parties, to ensure respect for the Convention and not merely rebuke or condemn the violating state. However, the permissible limits of such action should always be consistent with the provisions of the United Nations Charter. In case of serious violations, like those perpetrated in a systematic manner as deliberate policies of state, such action could be taken in cooperation with the United Nations Charter in adopting a variety of measures, coercive ones if necessary.

Parties of the Conventions should seek to hold periodic meetings among themselves, in order to create an institutionalized forum for undertaking effective collective action. The measures just suggested for enhancing the implementation of the Fourth Geneva Convention, would apply to any occupied territory, including occupied Palestinian territory of which Jerusalem is an integral part. One crucial question raised is the issue of the applicability of the Fourth Convention on occupied Palestinian territory in the light of Israel's refusal to accept its de jure applicability while agreeing only to de-facto application.

The convening of the Geneva Conference of the High Contracting Parties to the Fourth Geneva Convention on Measures to Enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, as recommended by the General Assembly at its tenth emergency special session in its resolution ES10/6, assumed a historic importance, since it was the first of such meetings of the Contracting Parties to the Convention at that level. The significance of the Conference was that the "participating High Contracting Parties reaffirmed the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem ... [and] would convene again in the light of consultations on the development of the humanitarian situation in the field. The Conference will open the door for future similar meetings, held on a regular basis, to monitor implementation of the Convention in Palestinian territory or any other occupied territory where the provisions of the Convention are not applied and fully respected.' In a more general context, the convening of the conference can be considered as an expression of the international community's renewed commitment and dedication, by reinforcing the rule of law in armed conflict. In conclusion, it is my view that the Geneva Conference represented a unique opportunity to increase world-wide awareness of the solemn obligation of states to respect the norms of international humanitarian law in armed conflict, and take collective measures to ensure their implementation by all states without exception. The success of the Conference will contribute to creating a better world, a world based on the rule of law and respect for the principles of humanity and justice.



## **Resolution passed in the General Assembly**

Recalling its relevant resolutions, including resolution 71/96 of 6 December 2016. Bearing in mind the relevant resolutions of the Security Council, Recalling the Regulations annexed to the Hague Convention IV of 1907, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and relevant provisions of customary law, including those codified in Additional Protocol I to the four Geneva Conventions.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and the relevant reports of the Secretary-General, Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations.

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice, and also recalling General Assembly resolution ES-10/15 of 20 July 2004.

Noting in particular the Court's reply, including that the Fourth Geneva Convention is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention.

Recalling the Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, held on 15 July 1999, as well as the declarations adopted by the reconvened Conference on 5 December 2001 and on 17 December 2014, and the urgent need for the parties to follow up the implementation of those declarations.

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively, according to article 1 common to the four Geneva Conventions, aimed at ensuring respect for the Convention, as well as the continuing efforts of the depositary State of the Geneva Conventions in this regard.

Noting the accession by Palestine on 1 April 2014 to the Geneva Conventions and Additional Protocol I, stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law.

- Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,<sup>1</sup> is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
- Demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
- Calls upon all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions<sup>3</sup> and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004, to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967.

- Notes the reconvening by Switzerland, the depositary State, of the Conference of High Contracting Parties to the Fourth Geneva Convention on 17 December 2014, and calls for efforts to uphold the obligations reaffirmed in the declarations adopted on 5 December 2001 and 17 December 2014.
- Welcomes initiatives by States parties, in accordance with article 1 of the Convention, aimed at ensuring respect for the Convention;
- Reiterates the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly, including at its tenth emergency special session and including re resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention.
- Requests the Secretary-General to report to the General Assembly at its seventy-third session on the implementation of the present resolution.

**Note:** *The Background guide is to give you an outlook of the agenda. It just gives a preview of what the agenda is all about and what it actually means. The delegates are expected to be well aware with the current status of their respective country in regards of the issues, situations and the probable suggestions and ideas that could solve the problems of this region. This is a very wide and sensitive matter which requires ample of researches regarding areas, the law and the facts. The diplomats are expected to debate by taking their allotted country requirements and stand into consideration. One must come up with thorough research.*

