

高等院校法学教学参考书

国际法资料选编

司法部法学教材编辑部审定 刘颖 吕国民 编

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国际法资料选编

International Law: Materials

DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

PREAMBLE

The General Assembly,

Reaffirming in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Bearing in mind also the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfillment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

Noting that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

Recalling the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

Convinced that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Considering it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Considering it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

Reaffirming, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

Convinced that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

关于各国依联合国宪章建立友好关系及合作之国际法原则之宣言

(联合国大会 1970 年 10 月 24 日通过)

弁 言

大会，

重申据联合国宪章之规定，维持国际和平及安全，发展国际友好关系及合作，乃系联合国之基本宗旨，
覆按联合国人民决心力行容忍，彼此以善邻之道，和睦相处，

念及维持及加强基于自由、平等、正义及尊重基本人权之国际和平，以及不分政治、经济及社会制度
或发展水平发展国际友好关系之重要，

复念及联合国宪章在促进国际法治上至为重要，

鉴于忠实遵守关于各国间友好关系与合作之国际法原则，并一秉诚意，履行各国依宪章所担负之义务，
对于国际和平及安全之维持及联合国其他宗旨之实现至关重要，

念及自宪章订立以来世界上所发生之重大政治、经济及社会变迁与科学进步，使此等原则更见重要，
并亟待将此等原则对国家在任何地方实施之行为作更切实之适用，

覆按外空包括月球与其他天体，不得由国家以主权之主张使用或占领或任何其他方法据为己有之既定
原则，并念及联合国刻正考虑基于同样精神制定其他适当规定之问题，

深信各国严格遵守不干涉任何他国事务之义务，为确保各国彼此和睦相处之一主要条件，因任何形式
之干涉行为，不但违反宪章之精神与文字，抑且引致威胁国际和平及安全之情势之造成，

覆按各国负有义务在其国际关系上应避免为侵害任何国家政治独立或领土完整之目的，使用军事、政
治、经济或任何其他形式之胁迫，

认为所有国家在其国际关系上应避免为侵害任何国家之领土完整或政治独立之目的，或以与联合国宗
旨不符之任何其他方式，使用威胁或武力，确属必要，

认为各国应依宪章以和平方法解决其国际争端，同属必要，

重申主权平等依据宪章所具有之基本重要性，并强调唯有各国享有主权平等并在其国际关系上充分遵
从此一原则之要求，联合国之宗旨始克实现，

深信各民族之受异族奴役、统治与剥削，对于促进国际和平及安全乃系一大障碍，

深信人民平等权利及自决原则为对现代国际法之重要贡献，其切实适用对于促进国际间以尊重主权平
等原则为根据之友好关系，至为重要，

Convinced in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

Considering the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

Considering that the progressive development and codification of the following principles:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,

(d) The duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfill in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

Having considered the principles of international law relating to friendly relations and co-operation among States,

1. Solemnly proclaims the following principles:

**The principle that States shall refrain in their international relations from
the threat or use of force against the territorial integrity or political
independence of any State or in any other manner inconsistent
with the purposes of the United Nations**

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special regimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

因此深信凡以局部或全部破坏国家统一及领土完整或政治独立为目的之企图，均与宪章之宗旨及原则不相容，

鉴于全部宪章之规定并计及联合国各主管机关关于各项原则之内容所通过各有关决议案之作用，

鉴于逐渐发展与编纂下列原则：

（a）各国在其国际关系上应避免为侵害任何国家领土完整或政治独立之目的或以与联合国宗旨不符之任何其他方式使用威胁或武力之原则，

（b）各国应以和平方法解决其国际争端俾免危及国际和平、安全及正义之原则，

（c）依照宪章不干涉任何国家国内管辖事件之义务，

（d）各国依照宪章彼此合作之义务，

（e）各民族享有平等权利与自决权之原则，

（f）各国主权平等之原则，

（g）各国应一秉诚意履行其依宪章所负义务之原则，以确保其在国际社会上更有效之实施，将促进联合国宗旨之实现，

业已审议关于各国建立友好关系及合作之国际法原则，

一、兹郑重宣布下列原则：

各国在其国际关系上应避免为侵害任何国家领土完整或政治独立之目的或以与联合国宗旨不符之任何其他方式使用威胁或武力之原则

每一国皆有义务在其国际关系上避免为侵害任何国家领土完整或政治独立之目的，或以与联合国宗旨不符之任何其他方式使用威胁或武力。此种使用威胁或武力构成违反国际法及联合国宪章之行为，永远不应用为解决国际争端之方法。

侵略战争构成危害和平之罪行，在国际法上须负责任。

依联合国宗旨与原则，各国皆有义务避免从事侵略战争之宣传。

每一国皆有义务避免使用威胁或武力以侵犯他国现有之国际疆界，或以此作为方法，解决国际争端，包括领土争端及国际疆界问题在内。

每一国亦有义务避免使用威胁或武力以侵犯国际界线，诸如经由该国为当事一方或虽非当事一方亦必须尊重之国际协定所确立或依此种协定确立之停火线。以上所述不得解释为妨碍有关各方对此等界线在其特殊制度下之地位及影响所持之立场，或解释为影响此等界线之暂时性质。

各国皆有义务避免涉及使用武力之报复行为。

每一国皆有义务避免对阐释各民族享有平等权利与自决权原则时所指之民族采取剥夺其自决、自由及独立权利之任何强制行动。

每一国皆有义务避免组织或鼓励组织非正规军或武装团队，包括佣兵在内，侵入他国领土。

每一国皆有义务避免在他国发动、煽动、协助或参加内争或恐怖活动，或默许在其本国境内从事以犯此等行为为目的之有组织活动，但本项所称之行为以涉及使用威胁或武力者为限。

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal.

Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter regime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States shall refrain from any action which may aggravate the Situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the Sovereign equality of States and in accordance with the Principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the pacific settlement of international disputes.

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.

Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State.

国家领土不得作为违背宪章规定使用武力所造成之军事占领之对象。国家领土不得成为他国以使用威胁或武力而取得之对象。使用威胁或武力取得之领土不得承认为合法。

以上各项不应解释为影响：

- (a) 宪章规定或在宪章制度以前所订而在国际法上有效之任何国际协定之规定；或
- (b) 宪章授予安全理事会之权力。

所有国家皆应一秉诚意从事谈判，俾早日缔结在有效国际管制下普遍及彻底裁军之世界条约，并努力采取缓和国际紧张局势及加强国际信心之适当措施。

所有国家皆应一秉诚意履行其依国际法公认原则及规则所负维持国际和平及安全之责任，并应努力使基于宪章之联合国安全制度更为有效。

以上各项不得解释为对宪章内关于合法使用武力情形所设规定之范围有何扩大或缩小。

各国应以和平方法解决其国际争端俾免危及国际和平、安全及正义之原则

每一国应以和平方法解决其与其他国家之国际争端，俾免危及国际和平、安全及正义。

各国因此应以谈判、调查、调停、和解、公断、司法解决、区域机关或办法之利用或其所选择之他种和平方法寻求国际争端之早日及公平之解决。于寻求此项解决时，各当事方应商定与争端情况及性质适合之和平方法。

争端各当事方遇未能以上开任一和平方法达成解决之情形时，有义务继续以其所商定之他种和平方法寻求争端之解决。

国际争端各当事国及其他国家应避免从事足使情势恶化致危及国际和平与安全之维持之任何行动，并应依照联合国之宗旨与原则而行动。

国际争端应根据国家主权平等之基础并依照自由选择方法之原则解决之。各国对其本国为当事一方之现有或未来争端所自由议定之解决程序，其采用或接受不得视为与主权平等不合。

以上各项绝不妨碍或减损可适用之宪章规定，尤其有关和平解决国际争端之各项规定。

依照宪章不干涉任何国家国内管辖事件之义务之原则

任何国家或国家集团均无权以任何理由直接或间接干涉任何其他国家之内政或外交事务。因此，武装干涉及对国家人格或其政治、经济及文化要素之一切其他形式之干预或试图威胁，均系违反国际法。

任何国家均不得使用或鼓励使用经济、政治或任何其他种措施强迫另一国家，以取得该国主权权利行使上之屈从，并自该国获取任何种类之利益。又，任何国家均不得组织、协助、煽动、资助、鼓动或容许目的在于以暴力推翻另一国政权之颠覆、恐怖或武装活动，或干预另一国之内争。

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as reflecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

The duty of States to co-operate with one another in accordance with the Charter

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

(a) States shall co-operate with other States in the maintenance of international peace and security;

(b) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

(d) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout the world, especially that of the developing countries.

The principle of equal rights and self-determination of peoples

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned; and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

使用武力剥夺各民族之民族特性构成侵犯其不可移让之权利及不干涉原则之行为。

每一国均有选择其政治、经济、社会及文化制度之不可移让之权利，不受他国任何形式之干涉。

以上各项不得解释为对宪章内关于维持国际和平与安全之有关规定有所影响。

各国依照宪章彼此合作之义务

各国不问在政治、经济及社会制度上有何差异均有义务在国际关系之各方面彼此合作，以期维持国际和平与安全，并增进国际经济安定与进步、各国之一般福利及不受此种差异所生歧视之国际合作。

为此目的：

- (a) 各国应与其他国家合作以维持国际和平与安全；
- (b) 各国应合作促进对于一切人民人权及基本自由之普遍尊重与遵从，并消除一切形式之种族歧视及宗教上一切形式之不容异己；
- (c) 各国应依照主权平等及不干涉原则处理其在经济、社会、文化、技术及贸易方面之国际关系；
- (d) 联合国会员国均有义务依照宪章有关规定采取共同及个别行动与联合国合作。

各国应在经济、社会及文化方面以及在科学与技术方面并为促进国际文化及教育进步，彼此合作。各国应在促进全世界尤其发展中国家之经济增长方面彼此合作。

各民族享有平等权利与自决权之原则

根据联合国宪章所尊崇之各民族享有平等权利及自决权之原则，各民族一律有权自由决定其政治地位，不受外界之干涉，并追求其经济、社会及文化之发展，且每一国均有义务遵照宪章规定尊重此种权利。

每一国均有义务依照宪章规定，以共同及个别行动，促进各民族享有平等权利及自决权原则之实现，并协助联合国履行宪章所赋关于实施此项原则之责任，俾：

- (a) 促进各国间友好关系及合作；
- (b) 妥为顾及有关民族自由表达之意旨，迅速铲除殖民主义；并毋忘各民族之受异族奴役、统治与剥削，即系违背此项原则且系否定基本人权，并与宪章不合。

每一国均有义务依照宪章以共同及个别行动，促进对于人权与基本自由之普遍尊重与遵行。

一个民族自由决定建立自主独立国家，与某一独立国家自由结合或合并，或采取任何其他政治地位，均属该民族实施自决权之方式。

每一国均有义务避免对上文阐释本原则时所指之民族采取剥夺其自决、自由及独立权利之任何强制行动。此等民族在采取行动反对并抵抗此种强制行动以求行使其自决权时，有权依照宪章宗旨及原则请求并接受援助。

The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

The principle of sovereign equality of States

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

- (a) States are judicially equal;
- (b) Each State enjoys the rights inherent in full sovereignty;
- (c) Each State has the duty to respect the personality of other States;
- (d) The territorial integrity and political independence of the State are inviolable;
- (e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;
- (f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter

Every State has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.

GENERAL PART

2. Declares that:

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles. Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration.;

3. Declares further that:

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

殖民地领土或其他非自治领土，依宪章规定，享有与其管理国之领土分别及不同之地位；在该殖民地或非自治领土人民依照宪章尤其是宪章宗旨与原则行使自治权之前，此种宪章规定之分别及不同地位应继续存在。

以上各项不得解释为授权或鼓励采取任何行动，局部或全部破坏或损害在行为上符合上述各民族享有平等权及自决权原则并因之具有代表领土内不分种族、信仰或肤色之全体人民之政府之自主独立国家之领土完整或政治统一。

每一国均不得采取目的在局部或全部破坏另一国国内统一及领土完整之任何行动。

各国主权平等之原则

各国一律享有主权平等。各国不问经济、社会、政治或其他性质有何不同，均有平等权利与责任，并为国际社会之平等会员国。

主权平等尤其包括下列要素：

- (a) 各国法律地位平等；
- (b) 每一国均享有充分主权之固有权利；
- (c) 每一国均有义务尊重其他国家之人格；
- (d) 国家之领土完整及政治独立不得侵犯；
- (e) 每一国均有权利自由选择并发展其政治、社会、经济及文化制度；
- (f) 每一国均有责任充分并一秉诚意履行其国际义务，并与其他国家和平相处。

各国应一秉诚意履行其依宪章所负义务之原则

每一国均有责任一秉诚意履行其依联合国宪章所负之义务。

每一国均有责任一秉诚意履行其依公认之国际法原则与规则所负之义务。

每一国均有责任一秉诚意履行其在依公认国际法原则与规则系属有效之国际协定下所负之义务。

遇依国际协定产生之义务与联合国宪章所规定联合国会员国义务发生抵触时，宪章规定之义务应居优先。

总结部分

二、兹宣布：

以上各原则在解释与实施上互相关联，每一原则应参酌其他各原则解释，

本宣言不得解释为对宪章之规定，或宪章所规定会员国之权利与责任，或宪章所规定各民族之权利，并计及本宣言内对此等权利之阐释，有任何妨碍，

三、并宣布：

本宣言所载之各项宪章原则构成国际法之基本原则，因之吁请所有国家在其国际行为上遵循此等原则，并以严格遵守此等原则为发展其彼此关系之基础。

United Nations General Assembly Resolution . Definition of Aggression

The General Assembly,

Basing itself on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and 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,

Recalling that the Security Council, in accordance with Article 39 of the Charter of the United Nations, 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,

Recalling also the duty of States under the Charter to settle their international disputes by peaceful means in order not to endanger international peace, security and justice,

Bearing in mind that nothing in this Definition shall be interpreted as in any way affecting the scope of the provisions of the Charter with respect to the functions and powers of the organs of the United Nations,

Considering also that, since aggression is the most serious and dangerous form of the illegal use of force, being fraught, in the conditions created by the existence of all types of weapons of mass destruction, with the possible threat of a world conflict and all its catastrophic consequences, aggression should be defined at the present stage,

Reaffirming the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence, or to disrupt territorial integrity,

Reaffirming also that the territory of a State shall not be violated by being the object, even temporarily, of military occupation or of other measures of force taken by another State in contravention of the Charter, and that it shall not be the object of acquisition by another State resulting from such measures or the threat thereof,

Reaffirming also the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Convinced that the adoption of a definition of aggression ought to have the effect of deterring a potential aggressor, would simplify the determination of acts of aggression and the implementation of measures to suppress them and would also facilitate the protection of the rights and lawful interests of, and the rendering of assistance to, the victim,

Believing that, although the question whether an act of aggression has been committed must be considered in the light of all the circumstances of each particular case, it is nevertheless desirable to formulate basic principles as guidance for such determination,

Adopts the following Definition of Aggression:

Article 1 Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.

Explanatory note: In this Definition the term "State":

(a) Is used without prejudice to questions of recognition or to whether a State is a member of the United Nations;

(b) Includes the concept of a "group of States" where appropriate.

Article 2 The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.

Article 3 Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

关于侵略定义的决议

（联合国大会 1974 年 12 月 14 日通过）

大会，

以下列事实作为基础，即联合国的基本宗旨之一在于维持国际和平与安全，并采取有效的集体措施以防止并消除对于和平的威胁，和制止侵略或其他破坏和平的行为，

忆及按照联合国宪章第三十九条的规定，安全理事会应断定任何威胁和平，破坏和平或侵略行为是否存在，且应作出建议，或按照第四十一条和第四十二条的规定，决定采取何种措施去维持或恢复国际和平与安全，

并忆及按照宪章的规定，各国义务以和平方法解决他们的国际争端，以免危及国际和平、安全与正义，注意到本定义绝不得解释为对于宪章中有关联合国各机构职权的规定的范围有任何的影响，

并考虑到：因为侵略是非法使用武力的最严重和最危险的形式，在一切类型大规模毁灭性武器存在的条件下，充满着可能发生世界冲突及其一切惨烈后果的威胁，所以，在现阶段应该订立侵略定义，

重申各国义务不使用武力剥夺他国人民的自决、自由和独立权利，或破坏其领土完整，

并重申一国的领土，不应成为别国违反宪章实行——即使是暂时的——军事占领或以其他武力措施侵犯的对象，亦不应成为别国以这些措施或这些措施的威胁而加以夺取的对象，

并重申各国依联合国宪章建立友好关系和合作的国际法原则宣言的各项规定，

深信侵略定义的订立应可对潜在的侵略者发生威慑作用，简化对侵略行为的断定及其制止措施的执行，并便利对受害者权利及合法利益的保护和对他们加以援助，

相信侵略行为是否已经发生的问题，虽然必须按照每一个别案件的全部情况来考虑，但是制订若干基本原则，作为这种断定的指导，仍然是可取的，

采用下列《侵略定义》：

第一条 侵略是指一个国家使用武力侵犯另一个国家的主权、领土完整或政治独立，或以本《定义》所宣示的与联合国宪章不符的任何其他方式使用武力。

解释性说明：本《定义》中“国家”一词：

- （a）其使用不影响承认问题或一个国家是否为联合国会员国的问题；
- （b）适当时包括“国家集团”的概念在内。

第二条 一个国家违反宪章的规定而首先使用武力，就构成侵略行为的显见证据，但安全理事会得按照宪章的规定下论断；根据其他有关情况，包括有关行为或其后果不甚严重的事实在内，没有理由可以确定已经发生了侵略行为。

第三条 在遵守并按照第二条规定的情况下，任何下列行为，不论是否经过宣战，都构成侵略行为：

（a）一个国家的武装部队侵入或攻击另一国家的领土；或因此种侵入或攻击而造成的任何军事占领，不论时间如何短暂；或使用武力吞并另一国家的领土或其一部分；