

International Relations

Mizuno Mitsuaki

1. Basic features of International Law

There are no legislative bodies or organs. But all the countries accept, respect and support them.

International Court of Justice can make decisions or make advisory opinions only on the legal issues / problems. It cannot deal with political or historical issues.

2. Difference between International Law and Internal Law

	International Law	Internal Law
Who can make?	depend on cases (The United Nations General Assembly does not and cannot make international law.)	Parliament (usually National Diet, or Congress)
What can make effective?	depend on cases (The United Nations does not and cannot make it effective.)	Usually administrative organs make it effective.
Is there any compelling power?	Yes. All states have to accept and obey it.	Yes.
Is there any jurisdiction organ?	depend on cases. International Court of Justice make decision only on the legal matters.	Usually there are domestic Courts.
the separation of (the three) powers (of administration, legislation, and judicature)	No.	In most states, there is the separation of powers.

3. Treaty

In international society, treaties can be concluded between or among states. In many cases, international organizations can conclude treaties with states or other international organizations.

VIENNA CONVENTION ON THE LAW OF TREATIES SIGNED AT
VIENNA 23 May 1969

Article 26 Pacta sunt servanda (「合意は守られなければならない」)

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27 Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Article 28 Non-retroactivity (不遡及) of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 19 Formulation of reservations (留保)

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

(a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

第十九条 (留保の表明)

いずれの国も、次の場合を除くほか、条約への署名、条約の批准、受諾若しくは承認又は条約への加入に際し、留保を付することができる。

(a) 条約が当該留保を付することを禁止している場合

(b) 条約が、当該留保を含まない特定の留保のみを付することができる旨を定めている場合

(c) (a) 及び (b) の場合以外の場合において、当該留保が条約の趣旨及び目的と両立しないものであるとき。

Article 53 Treaties conflicting with a peremptory norm of general international law (jus cogens (ユス・コーゲンス ; 強行規範)

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

第五十三条（一般国際法の強行規範に抵触する条約）

締結の時に一般国際法の強行規範に抵触する条約は、無効である。この条約の適用上、一般国際法の強行規範とは、いかなる逸脱も許されない規範として、また、後に成立する同一の性質を有する一般国際法の規範によつてのみ変更することのできる規範として、国により構成されている国際社会全体が受け入れ、かつ、認める規範をいう。

Examples of jus cogens norms include prohibitions against crimes against humanity, genocide, and human trafficking.

International Relations

Mizuno Mitsuaki

Nation State and international community/society: the Foundation of the United Nations

1)Thirty Years' War(三十年戦争) May 23, 1618-May 15, 1648

Initially a war between various Protestant and Catholic states in the fragmented Holy Roman Empire, it gradually developed into a more general conflict involving most of the great powers in Europe. This war spread almost entire Europe. It was the last major religious war in mainland Europe, ending the large-scale religious bloodshed accompanying the Reformation, which had begun over a century before.

2)Peace of Westphalia(ウエストファリア講和条約) May 15, 1648

The legal foundations of the modern sovereign nation-state.

The peace of Westphalia ended attempts at the imposition of any supranational authority on European states.

The major European powers agreed to abide by the principle of territorial integrity.

The Peace of Westphalia changed the relationship of subjects to their rulers. Previously, many people had borne overlapping, sometimes conflicting political and religious allegiances. Henceforth, the inhabitants of a given state were understood to be subject first and foremost to the laws and edicts of their respective state authority, not to the claims of any other entity, be it religious or secular.

3)World War I July 28, 1914-November 11, 1918

Originally World War I was fought between Allied Powers(連合国) and Central Powers(中央同盟国). Over nine million(900万) combatants (soldiers) and seven million(700万) civilians died as a result of the war. The Allied Powers defeated Central Powers.

The major countries of the Allied Powers were:

France, the Great Britain, Russia, Serbia, Belgium, Japan, Italy, the United States, Greece, China and more.

The major countries of Central Powers were:

Germany, Austro-Hungarian Empire, Ottoman Empire, Bulgaria and more.

4)Foundation of the League of Nations(国際連盟) January 10, 1920-April 20, 1946

In order to prevent large scale war such as World War I, the League of Nations was founded. In socio-cultural areas, it produced many results. Health Organization was founded as one of the organs of the League of Nations, which became World Health

Organization later. International Committee on Intellectual Cooperation was founded as one of them, which became United Nations Educational, Scientific and Cultural Organization after the end of World War II. International Labor Organization was founded in 1919.

The main reasons why the League of Nations could not prevent large scale war such as World War II:

i) The United States did not join it as it did not hope to commit global armed conflicts beside it (Monroe Doctrine).

ii) Withdrawing of major powers. Japan withdraw in 1933, and Italy withdraw in 1937. The Soviet Union joined in 1934, but was expelled in 1939 as it invaded Finland.

5) Twenty Years of Crisis(危機の二十年) 1919-1939

6) World War II September 1, 1939-September 2, 1945

Originally World War II was fought between Allied countries(連合国) and Axis countries (枢軸国). Allied countries were called the United Nations (連合国) after the Declaration(連合国共同宣言) on January 1, 1942. Twenty five million(2500万) combatants (soldiers) and Thirty seven million(3700万) civilians were killed during this war.

7) Foundation of the United Nations October 24, 1945

In order to prevent large scale wars such as World War I and World War II, the United Nations was founded. Its main and key issue is: how to prevent war or armed conflicts. There are many organs in the United Nations, but the core institution is the Security Council.

Issues to be considered:

- 1) colonial rule and the rights of self-determination especially in Asia and Africa
- 2) 'Developed' Europe and 'Developing' Asia and Africa ??
- 3) democracy and the impact of military or army

For further reading,

E.H. Carr, The Twenty Years' Crisis: 1919-1939: An Introduction to the Study of International Relations, New York: Perennial, 1939.

日本語訳もあります。

E.H.カー著、井上茂訳、『危機の二十年 — 1919-1939』岩波書店、1996年。

それほど難しい英文ではないので、ぜひ英語の原書にチャレンジを！

Further reading:

余力があれば、ぜひ読んでください。国連の理念が凝縮されています。

Declaration by the United Nations(連合国共同宣言), January 1, 1942

A Joint Declaration By The United States Of America, The United Kingdom Of Great Britain And Northern Ireland, The Union Of Soviet Socialist Republics, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, South Africa, Yugoslavia

The Governments signatory hereto,

Having subscribed to a common program of purposes and principles embodied in the Joint Declaration of the President of the United States of America and the Prime Minister of Great Britain dated August 14, 1941, known as the Atlantic Charter (大西洋憲章) ,

Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world,

Declare:

(1) Each Government pledges itself to employ its full resources, military or economic, against those members of the Tripartite Pact(日独伊三国同盟) and its adherents with which such government is at war.

(2) Each Government pledges itself to cooperate with the Governments signatory hereto and not to make a separate armistice(単独講和) or peace with the enemies.

The foregoing declaration may be adhered to by other nations which are, or which may be, rendering material assistance and contributions in the struggle for victory over Hitlerism (ヒトラー主義 ; ナチスドイツ) .

International Relations

League of Nations

Mizuno Mitsuaki

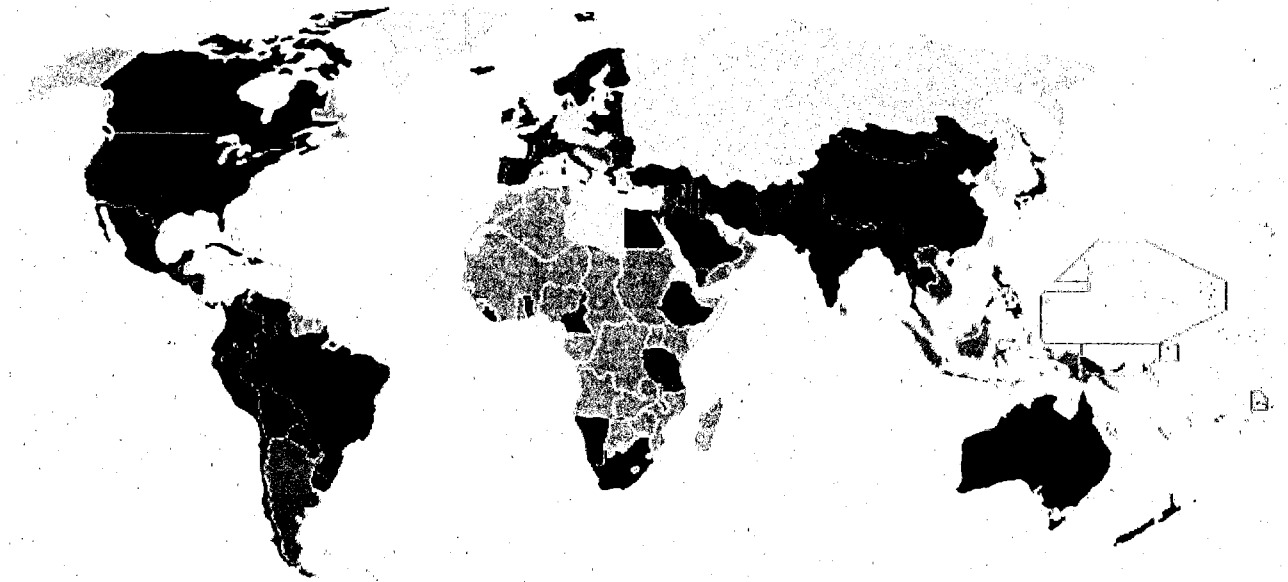
1. Basic facts

Established or founded: January 1, 1920

Dissolved: April 20, 1946

Headquarter: Geneva, Switzerland

Member states, nations:



- | | |
|--|---------------------------------------|
| ● Founding member that stayed until the end | ● League of Nations mandate |
| ● Founding member that left and joined again | ● Never members |
| ● Founding member that left | ● Colonies of members |
| ● Joined later and stayed until the end | ● Colonies of members that left |
| ● Joined later and left later | ● Colonies/territories of non-members |



League
of
Nations

source: Wikipedia

mandate: 委任統治領

colonies: 植民地

2. Basic organizations/organs

Secretariat

Assembly

Council

Permanent Court of International Justice

International Labor Organization

3. Overview

The League of Nations was an intergovernmental organization founded on 10 January 1920 as a result of the Paris Peace Conference (パリ講和会議) that ended the First World War. It was the first international organization whose principal mission was to maintain world peace. Its primary goals, as stated in its Covenant (国際連盟規約), included preventing wars through collective security (集団安全保障) and disarmament and settling international disputes through negotiation and arbitration (仲裁). Other issues in this and related treaties included labor conditions, just treatment of native inhabitants, human and drug trafficking, the arms trade, global health, prisoners of war, and protection of minorities in Europe. At its greatest extent from 28 September 1934 to 23 February 1935, it had 58 members.

After some notable successes and some early failures in the 1920s, the League ultimately proved incapable of preventing aggression by the Axis powers (枢軸国) in the 1930s. The credibility of the organization was weakened by the fact that the United States never officially joined the League and the Soviet Union joined late and only briefly. Germany withdrew from the League, as did Japan, Italy, Spain and others. The onset (勃発) of the Second World War showed that the League had failed its primary purpose, which was to prevent any future world war. The League lasted for 26 years; the United Nations (UN) replaced it after the end of the Second World War and inherited several agencies and organizations founded by the League.

4. Evaluation

League of Nations could not prevent the Second World War. In this meaning, it failed peaceful settlement of international disputes.

As for social and economic issues, it made progressive outcomes.

5. Chronology

1918

8 Jan.

The President of the United States of America, Woodrow Wilson, in his message on the conditions of peace delivered at a Joint Session of the Two Houses of the United States Congress, identifies the « 14 points (14 条の平和原則) » intended to serve as the basis for world peace. Point 14 says: “A general association of nations should be formed on the basis of covenants designed to create mutual guarantees of the political independence and territorial integrity of States, large and small equally.”

1919

25 Jan.

The plenary session of the Peace Conference accepts the proposals for the creation of a League of Nations.

27 Jan.

Election of a Committee to draft a Covenant (国際連盟規約)

28 Apr.

The Peace Conference unanimously adopts the draft Covenant on the motion of President Wilson of the United States of America

10 June

Sir Eric Drummond presents a memorandum on the working of administrative services.

10 June

The Secretariat is set up in London.

28 June

Signature of the Treaty of Versailles. Part I, Articles 1 to 26 of this and other Peace Treaties contain the Covenant of the League of Nations.

1920

10 Jan.

Entry into force of the Treaty of Versailles (ベルサイユ条約) and of the Covenant of the League of Nations.

16 Jan.

First session of the Council of the League of Nations, Paris.

13 Feb.

The Council accepts the duties entrusted to it with regard to the protection of minorities.

16 June

International Jurists' Committee (国際法律家委員会) meets for the creation of the Permanent Court of International Justice (常設国際司法裁判所).

24 Sept.

International Financial Conference at Brussels.

1 Nov.

The seat of the League of Nations is transferred from London to Geneva.

15 Nov.

First Assembly of the League of Nations convened in Geneva by President Wilson of the United States of America. Forty-one States send representatives.

1 Dec.

The Council approves the appointment of the Permanent Mandates Commission.

13 Dec.

The Assembly approves the draft Statute of the Permanent Court of International Justice.

15 Dec.

Admission of Austria to the League of Nations.

1921

20 Apr.-10 May

First General Conference on Communications and Transit at Barcelona, Spain.

30 June

International Conference on the Traffic in Women and Children, Geneva.

2 Sept.

The Permanent Court of International Justice comes into force.

1922

22 Jan.

First meeting of the Permanent Court of International Justice.

15 May

Signature of the German-Polish Convention relating to Upper Silesia (上部シレジア).

18 Sept.

Admission of Hungary to the League of Nations.

25 Sept.

The number of non-permanent Members elected by the Assembly to the Council increases from four to six.

4 Oct.

Signature at Geneva of protocols relating to the financial reconstruction of Austria.

1923

31 Aug.

International Conference on Obscene Publications at Geneva.

1924

14 Mar.

Signature at Geneva of protocols relating to the financial reconstruction of Hungary.

1 Oct.

Resolution of the Assembly opening the Protocol for the Pacific Settlement of International Disputes for signature by the Members

3 Nov.

First Opium Conference (ハーグ国際阿片会議) at Geneva.

24 Dec.

Costa Rica gives notice of withdrawal from the League of Nations.

1925

4-13 Feb.

International Health Conference at Singapore.

1 Mar.

Opening of the Eastern Epidemiological (疫学) Intelligence Centre in Singapore.

4 May

Conference on the Traffic in Arms.

14 Dec.

Transfer of the documents of the Locarno Pact (ロカルノ条約) to the Archives of the League of Nations.

1926

16 Jan.

Inauguration of the International Institute of Intellectual Cooperation at Paris.

12-18 May

Passport Conference.

18 May

First meeting of the Preparatory (予備的) Disarmament Commission at Geneva.

14 June

Brazil gives notice of withdrawal from the League of Nations.

19-21 Aug.

Meeting of Representatives of the Information Bureaux (情報局)

8 Sept.

Admission of Germany to the League of Nations; Germany made a permanent Member of the Council.

8 Sept.

The number of non-permanent Members elected by the Assembly to the Council increases from six to nine.

8 Sept.

Spain gives notice of withdrawal from the League of Nations.

1927

1 Jan.

Costa Rica ceases to be a Member of the League of Nations.

4-23 May

First International Economic Conference at Geneva.

24-29 Aug.

International Conference of Press Experts.

1928

22 Mar.

The Spanish Government announces that it will continue to collaborate in the work of the League of Nations.

30 May

Inauguration of the International Institute for the Unification of Private Law (国際私法), Rome.

13 June

Brazil ceases to be a Member of the League of Nations.

5 Sept.

Inauguration of the International Educational Cinematographic Institute, Rome.

26 Sept.

The eighteenth Assembly adopts the General Act for the Pacific Settlement of International Disputes.

1929

16 Aug.

The General Act for the Pacific Settlement of International Disputes comes into force.

4-13 Sept.

Conference for the Revision of the Statute of the Permanent Court of International Justice.

1930

13 May-7 June

International Conference for the Unification of Laws relating to Bills of Exchange, Promissory Notes and Cheques.

23 Sept.

First Session of the Commission of Enquiry for European Union.

30 Sept.

Creation of the Nansen International Office for Refugees.

1931

24 Jan.

The Council decides to convene the Conference for the Reduction and Limitation of Armaments.

16-30 Mar.

European Conference for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs.

26 Sept.

The Assembly adopts a General Convention to improve the Means of Preventing War.

9-27 Nov.

Conference for the Suppression of Opium Smoking at Bangkok.

1932

11-14 Jan.

Conference of Government Press Bureaux and Representatives of the Press at Copenhagen.

2 Feb.

Two-year Conference for the Reduction and Limitation of Armaments opens at Geneva.

2 Feb.

Opening of the League of Nations Wireless Station.

4 Sept.

Signature of the Lytton Report (リットン調査団報告書), Peiping (北平) (now Beijing).

14 Sept.

Germany notifies the President of the Conference for the Reduction and Limitation of Armaments of its decision to withdraw from the Conference.

3 Oct.

Admission of Iraq to the League of Nations.

11 Dec.

Agreement between France, Germany, Italy, the United Kingdom, and the United States of America on the question of Equality of Rights and Security.
1933

27 Mar.

Japan gives notice of withdrawal from the League of Nations.

(日本が国際連盟から脱退を宣言)

12 June

International Monetary and Economic Conference at London.

29 June

Adjournment of the work of the Conference for the Reduction and Limitation of Armaments.

26 Sept.

The Government of the Argentine Republic notifies the Secretary-General that its Parliament has approved the Covenant of the League of Nations.

2 Oct.

The Assembly provisionally raises the number of non-permanent Members of the Council (非常任理事国) from nine to ten.

14 Oct.

Germany withdraws from the Conference for the Reduction and Limitation of Armaments.

21 Oct.

Germany gives notice of withdrawal from the League of Nations.

9 Nov.

Conference of Government Press Bureaux and Representatives of the Press at Madrid.

1934

29 May

Meeting of the General Commission of the Conference for the Reduction and Limitation of Armaments.

22 June

Resolution adopted by the International Labor Conference inviting the Government of the United States of America to accede to the International Labor Organization (ILO).

20 Aug.

Acceptance by the President of the United States of America of the Resolution to accede to the ILO.

18 Sept.

Admission of the Union of Soviet Socialist Republics to the League of Nations. The Assembly approves the Council's proposal that the Soviet Union should be made a permanent Member.

(ソ連が国際連盟に加盟)

28 Sept.

Ecuador, one of the original Members of the League of Nations and named in the Annex of the Covenant, accedes to the Covenant.

1935

13 Jan.

Plebiscite held in the Saar Territory (ザール盆地地域).

17 Jan.

Based on the result of the Plebiscite, the Council decides that the Saar Territory should be united with Germany (rather than with France).

(住民投票の結果、ザール盆地地域がドイツに復帰)

29 Jan.

The Senate of the United States refuses to ratify the accession of the United

States of America to the Permanent Court of International Justice.

23 Feb.

Paraguay gives notice of withdrawal from the League of Nations.

1 Mar.

Germany takes over the Government of the Saar Territory.

15 Mar.

Registration by the Secretariat of the Agreement under which the United States of America acceded to the ILO.

27 Mar.

Japan ceases to be a Member of the League of Nations.

(日本、国際連盟から正式に脱退)

21 Oct.

Germany ceases to be a Member of the League of Nations.

1936

17-22 Feb.

The Secretariat moves into the new League of Nations buildings in Geneva.

8 Mar.

Germany denounces the Locarno Pact (ロカルノ条約).

9 May

Italy proclaims sovereignty over Ethiopia.

26 May

Guatemala gives notice of withdrawal from the League of Nations.

27 June

Nicaragua gives notice of withdrawal from the League of Nations.

4 July

The Assembly recommends that the Council should invite Governments to send in proposals for improving the application of the Principles of the Covenant.

4 July

The Assembly recommends that the Co-ordination Committee should propose to Governments the termination of sanctions.

10 July

Honduras gives notice of withdrawal from the League of Nations.

9 Sept.

Meeting between J.A. Avenol (ジョセフ・ルイ・アン・アヴェノル) , Secretary-General, and Benito Mussolini, Rome.

17-23 Sept.

Inter-Governmental Conference for the Conclusion of an International Convention Concerning the Use of Broadcasting in the Cause of Peace.

2 Oct.

The Council increases the number of its non-permanent Members from 10 to 11 for a period of three years.

10 Oct.

The Assembly appoints a Committee of 28 to study the Application of Principles of the Covenant.

14-16 Dec.

First Session of the Committee on the Application of Principles of the Covenant.

1937

26 Jan.

Brazil renews her acceptance of the Optional Clause (選択条項) of the Protocol of the Permanent Court of International Justice and ratifies the Protocol concerning the revision of the Statute of the Court.

2-15 Feb.

Conference of Central Authorities of Eastern Countries on the Traffic of Women and Children, Bandung, Java.

23 Feb.

Expiration of Paraguay's notice of withdrawal from the League of Nations.

4 Mar.

The Egyptian Government applies for admission to the League of Nations.

22 Apr.

The Bangkok Agreement on Opium-Smoking comes into force.

26-27 May

Extraordinary Session of the Assembly; admission of Egypt to the League of Nations.

28 May

The Council approves the reorganization of the Health and Financial Committees.

15 June

The British Imperial Conference expresses the hope that the Covenant of the League of Nations might be separated from the Peace Treaties.

5-9 July

Second General Conference of National Committees on Intellectual Cooperation, Paris.

8 July

Signature by Afghanistan, Iran, Iraq and Turkey of a Treaty of Non-Aggression and Protocol establishing an understanding between the Near Eastern countries (中近東) .

15 July

Expiration of the German-Polish Convention relating to Upper Silesia.

26 July

Salvador gives notice of withdrawal from the League of Nations.

12-29 Aug.

The Secretary-General visits Lithuania, Latvia, Estonia and Finland.

10-11 Sept.

Special Committee on the Application of Principles of the Covenant.

16 Sept.

The Council decides not to continue consideration of the question of calendar reform (改曆) .

30 Sept.

The Term of Office of the Commission of Enquiry for European Union is renewed for one year.

1 Oct.

Meeting of the Commission of Enquiry for European Union.

5 Oct.

The Council adjourns the Convocation of the Bureau of the Disarmament Conference.

14 Oct.

Nicaragua complains to the League of Nations about the treatment of Nicaraguans living in Honduras.

11 Dec.

Italy gives notice of withdrawal from the League of Nations.

14 Dec.

Italy leaves the International Labor Office.

1938

21 Jan.

Statement by the Swiss Federal Council concerning the neutrality of the Swiss Confederation.

28 Jan.

The Council decides in favor of the League of Nations' participation in the 1939 New York World Fair.

29 Jan.

Adoption of a new statute for the Communications and Transit Organization.

7-10 Feb.

Conclusion by Diplomatic Conference (President: J. Loudon, The Netherlands) of a Convention concerning the Status of Refugees coming from Germany. The Convention is signed by the representatives of seven States.

18 Mar.

The German Government communicates to the Secretary-General the text of a Law, dated 13 March, providing for the inclusion of Austria in Germany.

19 Mar.

Departure of a mission of the League of Nations Secretariat for Latin America.

21 Mar

Declaration by the Swiss Federal Council concerning the neutrality and independence of the Swiss Confederation.

9 Apr.

The British Government requests that the question of the consequences arising from the existing situation in Ethiopia be placed on the agenda of the next meeting of the Council.

29 Apr.

Memorandum by the Swiss Federal Council on Swiss neutrality.

14 May

The Council takes note of the intention of the Swiss Government not to take part in the application of sanctions in future, and declares that Switzerland will not be invited to do so.

14 May -

The Council refers a request by the Chilean Government to the Assembly that the reform of the Covenant should be treated as urgent.

25 May

The withdrawal of Guatemala from the League of Nations takes effect.

2 June

Chile gives notice of withdrawal from the League of Nations.

4 June

J.G. Winant from the United States of America is appointed Director of the International Labor Office.

29 June

The Electoral Commission, having stopped the registration of electors, leaves the Sanjak of Alexandretta (シリアの一部) and informs the Council that circumstances have prevented it from pursuing its work.

10 July

The withdrawal of Honduras from the League of Nations takes effect.

12 July

Venezuela gives notice of withdrawal from the League of Nations.

21 Sept.

The Dominican Republic, Greece and Yugoslavia are elected non-permanent Members of the Council.

22 Sept.

The Assembly expresses its appreciation of the action of the mediating States in the restoration of peace in the Chaco and of the part played by S. Lamas and M.C. Cantilo. (チャコ平和会議 ; ボリビアとパラグアイの境界地帯)

30 Sept.

The Council postpones the meeting of the Bureau of the Disarmament Conference.

14 Oct.

Meeting at Perpignan (ペルピニャン ; フランス南部) , France, of the Commission instructed to verify "on the spot" the measures taken by the Spanish Government for the withdrawal of non-Spanish combatants.

27-29 Oct.

Meeting of the Permanent Committee on Arts and Letters (Chairman: P. Valéry, France), Nice, France.

2 Nov.

Japan discontinues her cooperation with the technical organs of the League of Nations.

17 Nov.

The Nobel Peace Prize is awarded to the Nansen International Office for Refugees.

3 Dec.

Signature at Paris of an International Act giving to the International Institute of Intellectual Cooperation the character of an organization founded on collective agreements.

1946

18 Apr.

The League of Nations transfers all its assets to the United Nations.
Contract signed by Wlodzimierz Moderow, representative of the United

Nations, and Sean Lester, the last Secretary-General of the League of Nations.

(国際連盟の全資産が、国際連合に移管される)

source:

[https://www.unog.ch/80256EDD006B8954/\(httpAssets\)/3DA94AAFEB9E8E76C1256F340047BB52/\\$file/sdn_chronology.pdf](https://www.unog.ch/80256EDD006B8954/(httpAssets)/3DA94AAFEB9E8E76C1256F340047BB52/$file/sdn_chronology.pdf)

International Relations
Is the right of collective security 'inherent'?
2015 Japanese military legislation

Mizuno Mitsuaki

1)

2015 Japanese military legislation case

The controversial issue is: whether collective self defence is legal or illegal
Many experts of (Japanese) constitution say it is unconstitutional and illegal,
as the Constitution bans the right of collective self defence.

From the viewpoint of international law, the article 51 of the Charter of the
United Nations says "Nothing in the present Charter shall impair the
inherent right of individual or collective self-defence.....".

2)

The procedures of the United Nations Security Council maintaining or
restoring international peace and security

1. Determination of the existence of any threat to peace (Article 39)

2. Decision of provisional measures (Article 40)

3. Decision of measures not involving the use of armed force (Article 41)

4. Taking actions by air, sea, or land forces (Article 42)

The Members of the United Nations shall join in affording mutual assistance
in carrying out the measures decided upon by the Security Council. (Article
49)

Defence and defense are different spellings of the same word. Defense is
preferred in American English, and defence is preferred in all other main
varieties of English, including Australian, British, and Canadian English.

For references

1.

Charter of the United Nations

国際連合憲章

CHAPTER VII: ACTION WITH RESPECT TO THREATS TO THE PEACE,
BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

第 7 章 平和に対する脅威、平和の破壊及び侵略行為に関する行動

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

第 39 条

安全保障理事会は、平和に対する脅威、平和の破壊又は侵略行為の存在を決定し、並びに、国際の平和及び安全を維持し又は回復するために、勧告をし、又は第 41 条及び第 42 条に従っていかなる措置をとるかを決定する。

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

第 40 条

事態の悪化を防ぐため、第 39 条の規定により勧告をし、又は措置を決定する前に、安全保障理事会は、必要又は望ましいと認める暫定措置に従うように関係当事者に要請することができる。この暫定措置は、関係当事者の権利、請求権又は地位を害するものではない。安全保障理事会は、関係当事者がこの暫定措置に従わなかったときは、そのことに妥当な考慮を払わなければならない。

Article 41

The Security Council may decide what measures not involving the use of

armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

第 41 条

安全保障理事会は、その決定を実施するために、兵力の使用を伴わないいかなる措置を使用すべきかを決定することができ、且つ、この措置を適用するように国際連合加盟国に要請することができる。この措置は、経済関係及び鉄道、航海、航空、郵便、電信、無線通信その他の運輸通信の手段の全部又は一部の中断並びに外交関係の断絶を含むことができる。

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

第 42 条

安全保障理事会は、第 41 条に定める措置では不十分であろうと認め、又は不十分なことが判明したと認めるときは、国際の平和及び安全の維持又は回復に必要な空軍、海軍または陸軍の行動をとることができる。この行動は、国際連合加盟国の空軍、海軍又は陸軍による示威、封鎖その他の行動を含むことができる。

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

第 49 条

国際連合加盟国は、安全保障理事会が決定した措置を履行するに当って、共同して相互援助を与えなければならない。

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

第 51 条

この憲章のいかなる規定も、国際連合加盟国に対して武力攻撃が発生した場合には、安全保障理事会が国際の平和及び安全の維持に必要な措置をとるまでの間、個別的又は集団的自衛の固有の権利を害するものではない。この自衛権の行使に当って加盟国がとった措置は、直ちに安全保障理事会に報告しなければならない。また、この措置は、安全保障理事会が国際の平和及び安全の維持または回復のために必要と認める行動をいつでもこの憲章に基く権能及び責任に対しては、いかなる影響も及ぼすものではない。

CHAPTER VIII: REGIONAL ARRANGEMENTS

第 8 章 地域的取極

Article 52

Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

第 52 条

この憲章のいかなる規定も、国際の平和及び安全の維持に関する事項で地域的行動に適当なものを処理するための地域的取極又は地域的機関が存在することを妨げるものではない。但し、この取極又は機関及びその行動が国際連合の目的及び原則と一致することを条件とする。

2.

The Constitution of Japan

日本国憲法

Article 9.

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

第9条

日本国民は、正義と秩序を基調とする国際平和を誠実に希求し、国権の発動たる戦争と、武力による威嚇又は武力の行使は、国際紛争を解決する手段としては、永久にこれを放棄する。

前項の目的を達するため、陸海空軍その他の戦力は、これを保持しない。国の交戦権は、これを認めない。

Article 98.

This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

The treaties concluded by Japan and established laws of nations shall be faithfully observed.

第98条

この憲法は、国の最高法規であつて、その条規に反する法律、命令、詔勅及び国務に関するその他の行為の全部又は一部は、その効力を有しない。

日本国が締結した条約及び確立された国際法規は、これを誠実に遵守することを必要とする。

日本国憲法には、英語の公定訳（日本政府の公式訳）があります。

http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

難しい英語ではないので、一度読んでみるとよいでしょう。

International Relations Takeshima Islands issue and International Law

Mizuno Mitsuaki

1. Ministry of Foreign Affairs, Japan

Takeshima Islands issues and International Court of Justice

Japan's Consistent Position on the Territorial Sovereignty over Takeshima
Takeshima is indisputably an inherent part of the territory of Japan, in light of historical facts and based on international law.

The Republic of Korea has been occupying Takeshima with no basis in international law. Any measures the Republic of Korea takes regarding Takeshima based on such an illegal occupation have no legal justification.

Japan will continue to seek the settlement of the dispute over territorial sovereignty over Takeshima on the basis of international law in a calm and peaceful manner.

Note: The Republic of Korea has never demonstrated any clear basis for its claims that it had taken effective control over Takeshima prior to Japan's effective control over Takeshima and reaffirmation of its territorial sovereignty in 1905.

source:

<https://www.mofa.go.jp/region/asia-paci/takeshima/index.html>

Proposal of Referral to the International Court of Justice

1.

Following the establishment of the Syngman Rhee Line (李承晩ライン) by the ROK, Japan has repeatedly protested strongly against each action by the ROK; actions that include the ROK's own claims of sovereignty over Takeshima, fishing activities around Takeshima, firing on patrol vessels, and the construction of structures on the islands.

2.

For the peaceful settlement of the dispute, Japan proposed in September 1954 to the ROK with a note verbale (口上書) that this dispute over the sovereignty of Takeshima be referred to the International Court of Justice (the ICJ). However, the ROK rejected the proposal in October of the same

year (Note 1). In addition, on the occasion of the foreign ministerial talks in March 1962, Zentarō Kosaka (小坂善太郎), the then Minister of Foreign Affairs of Japan, made a proposal to Choi Duk Shin (崔徳新), the then Minister of Foreign Affairs of the ROK, to refer the dispute to the ICJ, but this proposal was again not accepted by the ROK.

3.

In addition, in August 2012, Japan delivered another note verbale to propose referring the dispute on the sovereignty over Takeshima to the ICJ once again, after Lee Myung-bak (李明博), the then President of the Republic of Korea, became the first ever Korean president to visit Takeshima. However, the ROK rejected Japan's proposal in the same month (Note 2).

Note 1: Referral to the ICJ was also suggested to the ROK by the US in 1954. In the report he made on his return home, Ambassador Van Fleet noted that "[t]hough the United States considers that the islands are Japanese territory [...] [o]ur position has been that the dispute might properly be referred to the International Court of Justice and this suggestion has been informally conveyed to the Republic of Korea."

Note 2: The ICJ has jurisdiction over a dispute only when all parties to the dispute have agreed to seek its settlement in the Court. Since 1958, Japan has accepted the ICJ's compulsory jurisdiction even when another country brings a unilateral suit against it without Japan's consent, as Japan respects the rule of law in the international community. However, the ROK does not take the same stance. As a result, even if Japan refers the case unilaterally to the ICJ, it has no jurisdiction as long as the ROK does not accept it.

source:

https://www.mofa.go.jp/a_o/na/takeshima/pagelwe_000065.html

2. Education

a) 中学校学習指導要領 (平成 29 年度告示)

社会

地理的分野

「領域の範囲や変化とその特色」については、我が国の海洋国家としての特色を取り上げるとともに、竹島や北方領土が我が国の固有の領土であることなど、

我が国の領域をめぐる問題も取り上げるようにすること。

その際、尖閣諸島については我が国の固有の領土であり、領土問題は存在しないことも扱うこと。

46 ページ。

歴史的分野

「富国強兵・殖産興業政策」については、この政策の下に新政府が行った、廃藩置県、学制・兵制・税制の改革、身分制度の廃止、領土の画定などを取り扱うようにすること。その際、北方領土に触れるとともに、竹島、尖閣諸島の編入についても触れること。

56 ページ。

公民的分野

「国家間の相互の主権の尊重と協力」との関連で、国旗及び国歌の意義並びにそれらを相互に尊重することが国際的な儀礼であることへの理解を通して、それらを尊重する態度を養うように配慮すること。また、「領土(領海, 領空を含む。), 国家主権」については関連させて取り扱い、我が国が、固有の領土である竹島や北方領土に関し残されている問題の平和的な手段による解決に向けて努力していることや、尖閣諸島をめぐる解決すべき領有権の問題は存在していないことなどを取り上げること。「国際連合をはじめとする国際機構などの役割」については、国際連合における持続可能な開発のための取組についても触れること。

62 ページ。

b) 高等学校学習指導要領 (平成 30 年度告示)

地理歴史

我が国の海洋国家としての特色と海洋の果たす役割を取り上げるとともに、竹島や北方領土が我が国の固有の領土であることなど、我が国の領域をめぐる問題も取り上げるようにすること。その際、尖閣諸島については我が国の固有の領土であり、領土問題は存在しないことも扱うこと。

51 ページ。

公民

「国家主権, 領土(領海, 領空を含む。)」については関連させて取り扱い、我が国が、固有の領土である竹島や北方領土に関し残されている問題の平和的な手段による解決に向けて努力していることや、尖閣諸島をめぐる解決すべき領有権の問題は存在していないことなどを取り上げること。「国家主権, 領土(領

海, 領空を含む。)」及び「我が国の安全保障と防衛」については, 国際法と関連させて取り扱うこと。

98-99 ページ。