

Benjamin K. Nußberger

# Interstate Assistance to the Use of Force



**Nomos**

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INTERNATIONAL PEACE  
AND SECURITY LAW



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*To Felicitas and Ferdinand in hope for a peaceful life*



## Preface

It was a brief letter that ultimately led to this book: Germany's report to the Security Council about its contributions to fighting ISIS in Syria. The masterful ambiguity of the letter intrigued me to explore the legal grey area in which interstate assistance often operates. The manuscript essentially developed during my time at the Institute for International Peace and Security Law at University of Cologne and at the University of Oxford. I defended it as doctoral dissertation at the Faculty of Law of the University of Cologne in November 2022. The present book is a revised and updated version of my dissertation. It takes into account State practice and literature up to March 2023, including practice relating to the ongoing war triggered by the Russian aggression against Ukraine.

A book on assistance, how could it be different, could not have been finished without the support of many. Hence, first and foremost, I would like to extend my sincere gratitude to Professor Claus Krefß, who exemplifies why in Germany a doctoral supervisor is called "Doktorvater" (doctoral father). Claus has been a "Doktorvater" to me in a literal meaning, caring about my academic and personal well-being. I would also like to thank Professor Stefan Hobe as the second examiner of my thesis for reviewing my work so swiftly.

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project. Paula Fischer, Josef Weinzierl, and my brother Malte Nußberger, who were the first to take on my full manuscript, deserve special mention here.

I am grateful to the German Academic Scholarship Foundation that generously supported my doctoral studies and my research stay in Oxford; to the German Academic Exchange Service (DAAD) for also supporting my academic visit to Oxford; and to the Institute for International Peace and Security Law as well as the Niedersachsen Consortium for generously funding the publication and enabling me to share my book with all, open access.

Last but not least, I would also like to say ‘thank you’ to my family – especially Angelika and Stephan, my parents, whose contributions by their very nature could not but be described inadequately, yet in any case have been at any time pivotal. Finally, a great and heartfelt ‘*merci infiniment*’ to my wife, Anne-Marie, who personifies loving, boundless, patient, assuring, and enabling assistance that cannot be properly put into words but certainly makes her an ‘accomplice’ in whatever I do.

Berlin, March 2023



## Overview of contents

Chapter 1 Interstate Assistance to the Use of Force – The Framework of the Book	29
Chapter 2 Pre-1945 History of Interstate Assistance – Diversity in Transition	65
Chapter 3 The United Nations Charter and Interstate Assistance	109
Chapter 4 Interstate Assistance in International Practice – Filling the United Nations Charter with Life	183
Chapter 5 The Regulatory Framework Governing Interstate Assistance as Elucidated by International Practice	723
Chapter 6 General Rules of International Law and Interstate Assistance	789
Chapter 7 The Regime Governing Interstate Assistance to the Use of Force – Quo Vadis?	839
Bibliography	843



# Table of contents

Selected Abbreviations	25
Chapter 1 Interstate Assistance to the Use of Force – The Framework of the Book	29
I. The importance and relevance to assess interstate assistance to a use of force	31
II. The factual and legal scope of the analysis	43
A. Definition of ‘interstate assistance to the use of force’	44
1) Action and inaction capable of contributing	45
2) ‘Inter-State’ assistance	48
3) Assistance ‘short of armed force’	52
4) Assistance to ‘another State’s use of force’	54
B. The normative focus: universal prohibition(s) to contribute to a use of force	56
III. The outline of the book	62
Chapter 2 Pre-1945 History of Interstate Assistance – Diversity in Transition	65
I. Assistance and the <i>ius ad bellum</i>	65
II. Assistance and the emerging <i>ius contra bellum</i>	69
A. Assistance and collective security – the Covenant of the League of Nations	70
1) The idea of collective security and assistance	71
a) The ideal concept of a collective security system	71
b) The role of non-assistance in a collective security system	76
c) Families of collective security systems	78
2) Assistance under the Covenant of the League of Nations	80
B. Prohibitions of war: also prohibitions of assistance to war?	89
1) (Bilateral) treaties of non-aggression and assistance	90
2) The Kellogg-Briand Pact and assistance	97

III. Assistance in a time of transition	106
Chapter 3 The United Nations Charter and Interstate Assistance	109
I. The <i>ius contra bellum</i> under the UN Charter and interstate assistance: an overview	109
II. A prohibition of assistance by a UN sanction – Article 41 UN Charter	111
A. Sanctions as non-assistance obligations? The scope and content of sanctions	112
B. The precondition for sanctions	113
C. Non-automatic sanctions: the role of the Security Council	114
D. UN sanctions as the exclusive regime governing assistance?	117
III. Article 2(5) UN Charter: non-assistance only if the United Nations takes action?	119
A. The trigger: A general prohibition of interstate assistance?	120
B. The scope: A prohibition of assistance to conduct obstructing UN action	122
C. Is Article 2(5) alt 2 UN Charter exclusive?	125
D. Article 2(5) UN Charter as embodiment of a general idea	126
IV. An implicit prohibition of assistance in view of specifically recognized rights to provide assistance?	127
A. Is assistance permissible only to a use of force through the United Nations?	128
B. Is assistance permissible in collective self-defense only?	130
C. Some observations	134
V. Obligatory solidarity under the UN Charter?	135
VI. Assistance as a prohibited threat or use of force? – Article 2(4) UN Charter	136
A. An act of assistance to a use of force as ‘force’?	138
1) Dogmatic distinction between assisting and assisted conduct	138
2) The contribution of assistance to a use of force as ‘force’?	139
3) The risk created by assistance as ‘force’?	142

4) Terminological clarification	145
B. A prohibition of assistance as necessary and logical complement to the agreement to refrain from a use force itself?	149
C. Assistance as a 'use' of force?	153
1) No limitation of Article 2(4) UN Charter to 'direct use'	154
a) 'Indirect use' – 'use' through interstate assistance?	156
b) Proposals to define 'indirect use of force'	160
2) Article 2(4) UN Charter's guidance on assistance	163
a) An actual conduct that meets the threshold of use or threat of force	163
b) The necessary degree of involvement	164
D. Assistance as a 'threat' of force?	165
VII. Assistance and sovereign equality under Article 2(1) UN Charter	166
A. Assistance as unlawful intervention in internal affairs of the target State?	167
1) Can assistance bear on internal affairs of another State?	169
2) Assistance as coercion?	170
a) Assistance as direct intervention	171
b) Assistance as indirect intervention	173
B. Assistance and the prohibition to infringe upon territorial sovereignty	174
VIII. An unwritten prohibition of participation in a use of force?	175
IX. The UN Charter – Not comprehensive, but guidance for international practice	181
 Chapter 4 Interstate Assistance in International Practice – Filling the United Nations Charter with Life	 183
I. Methodological approach	183
II. Assistance in international practice	187
A. Assistance in abstract international practice	188
1) The ILC Draft Declaration on Rights and Duties of States (1949)	190
a) The nature of the Draft Declaration	192

b)	The Draft Declaration – an overview	194
c)	‘Intervention’ and assistance	197
d)	Article 10 of the Draft Declaration	203
	(1) Article 19 Panama Draft	203
	(2) Discussions within the ILC	206
	(3) The status of Article 10 of the Draft Declaration	211
	(4) The scope of the prohibitions in Article 10 of the Draft Declaration	214
e)	The relevance of the Draft Declaration for assistance	217
2)	The Friendly Relations Declaration (1970)	218
	a) Assistance in the framework of discussions	220
	b) Assistance and the negotiations	222
	c) Assistance and the prohibition to use force	225
	(1) The debate on assistance to non-State actors	225
	(a) Application to States?	226
	(b) Structural elements of the prohibition of indirect use of force	230
	(2) Assistance as ‘force’	239
	d) Assistance and intervention	240
	e) Assistance as a threat of force	241
3)	The Definition of Aggression (1974)	242
	a) Nature and purpose of the Definition	243
	b) The Definition of Aggression and assistance	247
	c) Assistance in the early debates on aggression	248
	(1) Debates when drafting the UN Charter	248
	(2) The UNGA debates in the First Committee	249
	(3) The ILC debate	251
	(a) The report of the special rapporteur	251
	(b) The debate within the ILC	253
	(c) States’ reactions	254
	(4) The UN Secretary General report 1952	256
	d) Assistance in the era of Special Committees	257
	(1) The first two Special Committees	257
	(a) The 1953 Committee	258
	(b) The 1956 Committee	261
	(c) The 1957 Committee	262

(d) Some observations	264
(2) The Third Special Committee – Interstate assistance as free rider	264
(a) 1967-1969	265
(b) 1969-1970	268
(c) 1971	273
(d) 1972	275
(e) 1973	276
(i) Some observations	277
(ii) States' observations	285
(f) 1974	287
(i) The degree of involvement	289
(ii) 'Its territory'	294
e) The concept: Assistance as aggression	295
4) The Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Use of Force in International Relations (1987)	302
a) A controversial and conservative resolution	303
b) A relevant resolution – particularly for non-assistance	307
c) Assistance in the proposals	308
d) Assistance in the debates	312
(1) Indirect use of force	313
(a) No broad understanding of 'force'	315
(b) An assisted act that involves the threat or use of force as precondition	315
(c) Application to interstate assistance?	319
(i) A prohibition of perpetration...	319
(ii) ... applicable in the interstate context...	320
(iii) ... but applied to non-State actors only	322
(d) Conclusion	324
(2) The separate prohibition of participation	324
(a) Uncontroversial...	324
(b) ... and not new...	326
(c) ... but still welcome	328
(d) The substantiation of the prohibition	329

(e) The relationship with other rules	332
(f) A prohibition of participation	333
e) Nothing new, but more clarity	337
f) A duty to provide assistance to the victim?	339
5) The Articles on State Responsibility	340
a) The evolution of Article 16 ARS as proof of a pre-existing special rule governing assistance in the <i>ius contra bellum</i>	341
b) Article 16 ARS applied to the use of force	344
6) Selection of abstract views of individual States on assistance	344
a) The Tripartite Declaration	345
b) USA	345
c) Germany	347
B. Assistance in treaty practice	349
1) Treaties regulating assistance	350
a) Assistance as prohibited ‘use of force’ or ‘aggression’	354
b) A separate prohibition: non-assistance to a use of force or aggression	358
c) Treaties’ indication for the general framework of assistance	368
2) Treaties by which States provide assistance	369
a) Treaties of solidarity	370
b) Treaties of general military cooperation and security assistance	374
c) Treaties establishing military bases	379
d) Permissions of transit	383
(1) Transit through water	383
(2) Overflight	385
(3) Territorial passage	386
e) Preliminary observations	386
3) The Arms Trade Treaty	387
C. Assistance in conflict practice	392
1) The Korea war 1950	395
a) Assistance to South Korea and the US-led military operation	396
b) (Non-)Assistance to North Korea	402



2) The Suez crisis 1956	408
3) American and British intervention in Lebanon and Jordan 1958	408
4) The U2 incident 1960	410
5) Stanleyville 1964	413
6) US operations in Cambodia against North Vietnam 1970	416
7) The rescue operation in Entebbe 1976	417
8) The Osirak incident 1981	421
9) The Falklands/Malvinas conflict 1982	427
10) The Iraq-Iran conflict 1980-1988	430
11) Operation El Dorado Canyon in Libya 1986	434
12) The Chadian-Libyan conflict 1987	439
13) No-flight zones in Iraq 1991-2003	440
a) Iraq	442
b) Assisting States	444
14) US strikes in Afghanistan 1998	449
15) Operation Iraqi Freedom 2003	450
a) The role of assistance in Iraq: the US 'coalition' narrative	452
b) Assistance to the use of force or occupation	454
(1) States engaged in combat	454
(2) States deploying troops to assist	454
(3) States refraining from assistance	457
(4) Regional States	459
(a) Declarations of non-assistance...	459
(b) ... not implemented in practice?	462
(c) A special case: Kuwait	464
(5) States providing assistance	467
(6) Political assistance	475
c) Assistance, but not to the use of force or occupation?	476
(1) Assistance in the preparation stage	476
(2) Humanitarian assistance	477
(3) Assistance to reconstruction – assistance to occupation?	477
(4) NATO involvement: assistance to Turkey and Poland, but not more	480

d) Protest against assistance	481
e) Assistance to Iraq	484
f) Some general observations	484
16) The Georgian-Russian war 2008	487
17) The Abu Kamal raid 2008	492
18) The intervention in Libya 2011	494
a) States engaged in combat and providing assistance	496
b) States providing assistance	504
c) Non-Supporting States	507
d) Conclusion	508
19) The war in Yemen since 2015	509
a) Operations Decisive Storm and Restoring Hope	509
(1) The Coalition using force	509
(2) States providing support short of direct use of force	510
(a) United States	510
(b) United Kingdom	516
(c) African States	519
(d) States licensing arms export	522
b) Attacks directed against Saudi-Arabia	525
20) Fighting ISIS in Iraq and Syria since 2014	526
a) Assistance to airstrikes in Iraq in the realm of the 'Global Coalition'	527
b) Assistance to airstrikes in Syria in the realm of the 'Global Coalition'	529
(1) States eventually conducting air strikes in Syria	532
(a) Australia	532
(b) Regional (Arab) States	536
(c) Canada	536
(d) United Kingdom	538
(e) France	543
(f) Netherlands	544
(g) Turkey	545
(h) Denmark	547
(2) States providing assistance only	549
(a) Iraq	550

(b) Germany	551
(c) Italy	556
(d) Poland	558
(e) Spain	558
(f) Greece	559
(g) Sweden	560
(h) European States “unburdening France”	561
(i) Singapore	562
(j) Coalition States without making contributions: the example of Panama	562
(3) Protest against Assistance?	563
c) Assisting assistance to Syrian opposition forces	563
d) Assistance to Russia for its operations in Syria	566
21) Fighting ISIS in Libya 2015 and 2016	568
22) Strikes in reaction to use of chemical weapons 2017 and 2018	570
23) The Soleimani incident 2020	571
24) The war in Ukraine since 2022	575
a) Assistance and Russia’s military operation	577
(1) Belarus	577
(2) Syria	590
(3) China	591
(4) Iran	595
(5) Western (non)-sanctions	597
b) Assistance and Ukraine’s defense	598
(1) Western States’ military assistance	599
(2) Reactions to Western assistance	610
25) Israeli airstrikes in Syria against Iran	615
26) Assistance and Turkey’s military operations against Kurdish groups	620
a) Germany	620
b) USA	623
c) The Arab League	626
27) Assistance and drone strikes	626
a) United Kingdom’s contributions	627
b) Djibouti and Camp Lemonnier and Chabelley	628
c) The Netherlands and intelligence	628
d) Italy and the base in Sigonella	629

e)	Germany and the Ramstein base	630
(1)	German government's position	631
(2)	German courts	634
D.	Assistance and the International Court of Justice	638
1)	The Corfu Channel Case	639
2)	The Case concerning Military and Paramilitary Activities in and against Nicaragua	645
a)	Factual assumptions of the Court	646
b)	Overview of the Court's legal framework on assistance	648
c)	Assistance and the prohibition against threat and use of force	648
(1)	Direct use of force	649
(2)	Indirect use of force	649
(a)	The Court's conceptualization of indirect use of force	650
(b)	Necessary involvement for indirect 'use'	651
(c)	Consequences – self-defense against assistance	658
(3)	Assistance as a threat of force	659
d)	Assistance and the principle of non-intervention	660
e)	Assistance, sovereignty and territorial inviolability	664
3)	The Legality of the Use of Force Cases	665
4)	The Oil Platforms Case	666
5)	The Armed Activities on the Territory of the Congo Case	670
a)	Assistance and the use of force	675
(1)	Sudanese involvement	678
(2)	Uganda and the Kitona attacks	681
b)	Assistance and self-defense	682
6)	The Bosnia Genocide Case	684
E.	Permissible assistance under the UN Charter	685
1)	'Assistance' in Article 43 UN Charter	686
2)	The Security Council's understanding of assistance to an authorized force	689
3)	Article 51 UN Charter – assistance in collective self- defense	692

F. Assistance in case the UN takes action	692
1) Non-assistance as UN enforcement measure	693
a) Authorization of a use of force – an implicit prohibition to provide assistance to the targeted State (when) using force?	693
b) Sanctions with respect to interstate use of force	696
(1) Sanction against the assisting State: a prohibition of interstate assistance	697
(2) Sanction against the assisted recipient State: prohibition of interstate assistance to a use of force	698
c) UN non-binding calls for non-assistance	706
(1) Practice of the Security Council	706
(2) Practice of the General Assembly	707
2) International practice relating to Article 2(5) UNC	708
a) General observations: application if the UN takes action	710
b) A duty to assist the UN	712
c) Non-assistance to the target State	716
(1) UN measures short of force	717
(2) Measures involving the use of force	719
d) Preliminary observations	719
 Chapter 5 The Regulatory Framework Governing Interstate Assistance as Elucidated by International Practice	 723
I. Regulation of interstate assistance without UN action – duality in practice	728
A. The distinguishing criteria in the abstract: proximity vs remoteness	729
1) Distinguishing factors	731
a) Assistance – how?	731
(1) Assistance – what is provided? The objective criteria	732
(2) The implication of assistance in the use of force	733
(3) The subjective attitude of the assisting State	733

b)	Key features in application of the distinguishing criteria	734
(1)	Assistance – to whom? The assisted actor	734
(a)	Nature of the assisted actor: State or non-State	735
(b)	The role of the recipient within the assisted actor?	737
(2)	Assistance – a quid pro quo?	738
2)	Relevance of other legal concepts?	738
B.	Which interstate assistance is prohibited how?	741
1)	Assistance under the prohibition to use of force	742
a)	Direct use of (own) force	742
b)	Indirect use of force	743
(1)	Assisted use of force by a State	744
(2)	The assisted use of force	744
(3)	The relationship between the act of assistance and the assisted use of force	746
(4)	Legal consequences	749
c)	A flexible interpretation within the UN Charter's boundaries	751
2)	Assistance under a prohibition of participation in an unlawful use of force	753
a)	Existence of the prohibition of participation	754
b)	Contours and scope of the prohibition of participation	755
(1)	Dependency on the occurrence of another State's use of force	755
(2)	Qualification of the assisted use of force	756
(3)	The relationship between assistance and use of force	758
(a)	Assistance through omissions	759
(b)	Objective factors	760
(c)	Subjective factors	762
(d)	Intention	766
(4)	Legal consequences	768
(a)	Is participation only justified when the assisting State would have a right to use force?	770

(i)	Participation due to necessity?	770
(ii)	Participation as a countermeasure?	773
(b)	Self-defense and international criminal responsibility	774
(c)	Relationship with duties to cooperate and assist	775
c)	A ‘modifying’ change of the UN Charter’s paradigm?	776
3)	Norms that are not applied to interstate assistance to a use of force	778
a)	Prohibition of a threat of force	778
b)	The non-intervention rule and assistance	780
c)	The territorial inviolability and assistance	782
d)	A general duty to ensure respect for the prohibition to use force under the UN Charter?	783
II.	Regulation of interstate assistance dependent on UN action	783
A.	Sanctions prohibit assistance	784
B.	Interaction of the UN and general rules on assistance	787
C.	Article 2(5) UN Charter	787
Chapter 6 General Rules of International Law and Interstate Assistance		789
I.	Assistance and the attribution of conduct	789
A.	Assistance and Articles 4, 8, 11 ARS	792
B.	Joint conduct: attribution of conduct by virtue of co-perpetration?	794
1)	Joint conduct as attribution of conduct?	795
2)	Assistance as ‘joint conduct’?	798
C.	Special attribution grounds in <i>ius contra bellum</i> ?	800
II.	Assistance leading to ‘international responsibility’ in connection with the act of another State	802
A.	Article 16 ARS – “aid and assistance”	802
1)	The legal result of assistance: “internationally responsible”	803
2)	Preconditions for prohibited assistance under Article 16 ARS	810
a)	The requirement of an unlawful assisted act	810

b) The objective condition: ‘aid and assistance in the commission of an internationally wrongful act’	812
c) The subjective prerequisites: Article 16 (a) ARS	816
(1) Knowledge of the circumstances of the internationally wrongful act	816
(2) Intention to facilitate?	820
(3) Knowledge at what point in time?	821
d) The opposability requirement: Article 16 (b) ARS	821
e) A different threshold for assistance to serious breaches of peremptory norms?	823
3) Relationship to specific rules governing assistance	826
B. Assistance as ‘direction and control’ or ‘coercion’	829
III. Assistance and due diligence obligations	831
A. Due diligence obligations informing non-assistance provisions	832
B. Due diligence obligations requiring non-assistance	833
Chapter 7 The Regime Governing Interstate Assistance to the Use of Force – Quo Vadis?	839
Bibliography	843



## Selected Abbreviations

1987- Declaration	United Nations General Assembly Resolution 42/22 of 18 November 1987, Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Use of Force in International Relations
Aggression Definition	United Nations General Assembly Resolution 3314 (XXIX) of 14 December 1974, Definition of Aggression
alt	alternative
AP	Associated Press
Appl No	Application Number
ARIO	Articles on the Responsibility of International Organizations, in Yearbook of the International Law Commission, 2011, vol. II, Part Two, as it appears in the annex to General Assembly resolution 66/100 of 27 February 2012
ARS	Articles on the Responsibility of States for Internationally Wrongful Acts, Yearbook of the International Law Commission, 2001, vol II (Part Two), as it appears in the annex to General Assembly resolution 56/83 of 12 December 2001, and corrected by document A/56/49(Vol. I)/Corr.4.
ASEAN	Association of Southeast Asian Nations
ATT	Arms Trade Treaty, adopted by United Nations General Assembly Resolution 67/234B of 2 April 2013, entered into force 24 December 2014, 3013 UNTS I52373
AU	African Union
BT Drs	Bundestagsdrucksache
BVerfG	Bundesverfassungsgericht
BVerfGE	Entscheidungen des Bundesverfassungsgerichts
BVerwG	Bundesverwaltungsgericht
BVerwGE	Entscheidungen des Bundesverwaltungsgerichts
CADSP	Solemn Declaration on a Common African Defense and Security Policy (27-28 February 2004)
Daesh	Islamic State of Iraq and the Levant
Deb	Debate
DeptStBull	Department of State Bulletin

## *Selected Abbreviations*

DW	Deutsche Welle
ECHR	European Convention of Human Rights
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
ed	Editor
edn	edition
eds	Editors
EU	European Union
FAZ	Frankfurter Allgemeine Zeitung
Friendly Relations Declaration	United Nations General Assembly Resolution 2625 (XXV) of 24 October 1970, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations
FT	Financial Times
GCC	Gulf Cooperation Council
HC	House of Commons
HL	House of Lords
i.a.	inter alia
IBTimes	International Business Times
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by United Nations General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976, 999 UNTS 171
ICG	International Crisis Group
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal of the Yugoslavia
IHL	International Humanitarian Law
ILC	International Law Commission
ILC ARS Commentary	Responsibility of States for Internationally Wrongful Acts, General Commentary, as it appears in Yearbook of the International Law Commission, 2001 vol II Part Two as corrected, pages 31-143
ILCYB	Yearbook of the International Law Commission
ILDC	International Law in Domestic Courts

ILM	International Legal Materials
IRNA	Islamic Republic News Agency
ISIL	Islamic State of Iraq and the Levant
ISIS	Islamic State of Iraq and the Levant
KUNA	Kuwait News Agency
LNTS	League of Nations Treaty Series
LoN	League of Nations
LoNC	Covenant of the League of Nations
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
No	Number
NYT	New York Times
OAS	Organization of American States
OSCE	Organization for Security and Co-Operation in Europe
OIC	Organisation of Islamic Cooperation
OVG	Oberverwaltungsgericht
para	paragraph
RFERL	Radio Free Europe Radio Liberty
SIPRI	Stockholm International Peace Research Institute
SOFA	Status of Force Agreement
SZ	Süddeutsche Zeitung
TIAS	Treaties and Other International Acts Series
UN	United Nations
UNC	Charter of the United Nations
UNCIO	Documents of the United Nations Conference on International Organization
UNGA	United Nations General Assembly
UNRIAA	Reports of International Arbitration Awards
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
UNTS	United Nations Treaty Series
UNYB	Yearbook of the United Nations
UST	United States Treaties and Other International Agreements

## *Selected Abbreviations*

VCLT	Vienna Convention on the Law of Treaties, done on 23 May 1969, entered into force on 27 January 1980, 1155 UNTS 331
VG	Verwaltungsgericht
vol	volume
WaPo	Washington Post
WSJ	Wall Street Journal

Symbols without specific designation are United Nations documents. For the abbreviations used, see the Dag Hammarskjöld United Nations Library guide on 'UN Document Symbols' available at: <https://research.un.org/en/docs/symbols>.