

Chapter 2: Making International Law

Worksheet

2.1 Case Study: North Korea Goes Nuclear

- In your own words, briefly summarize important facts about the case. Include important actors and events.
- What are the important legal and political questions raised by this case?

2.2 Treaties

- What is a treaty?
- What is the principle of *pacta sunt servanda*?

Entry into Treaties

- How do states negotiate treaties? What kinds of actors are involved in this process?
- What are the steps for a state to join a treaty?
- What legal obligations does a state face if it signs a treaty but does not ratify it?
- When are treaties invalid?

Reservations

- What is a reservation? Provide 2—3 examples.
- What criteria are used to determine if a reservation is valid?
- Who has authority to determine whether a reservation is valid? Compare the competing viewpoints on this question.
- What happens if a reservation is not valid? Compare the competing viewpoints on this question.

Interpretation

- Which actors interpret treaties? Why do these actors sometimes disagree on the meaning of a treaty (i.e. why is interpretation necessary)?
- What tools are used to interpret treaties?

- Describe the three different methods of interpretation. Provide an example to illustrate each method.
- What are the competing perspectives on the timing of interpretation? Provide an example to illustrate this issue.
- What are the competing perspective on the breadth of interpretation? Provide an example to illustrate this issue.

Exit from Treaties

- What are the various methods states to exit from treaties?
- Provide an example for each method.

2.3 Customary International Law

- What is customary international law?
- How do you prove it exists?

State Practice

- What is state practice? What kinds of behavior matter?
- How is state practice assessed? What kinds of criteria are used, and how are they applied?
- What are specially affected states, and how do they affect state practice?
- How do inaction and counterexamples affect state practice?

Acceptance as Law (Opinio Juris)

- What is acceptance of law (*opinio juris*)?
- How do debates about this aspect of international law relate to voluntary and communitarian law (as discussed in chapter 1)?
- How has the historical development of the international system affected the beliefs of states about acceptance of law (*opinio juris*)?

Conceptual Challenges

- Describe the chronological paradox and why it is problematic for creating and changing customary international law.

- How do treaties affect customary international law?
- How do UN General Assembly resolutions affect customary international law?
- Can states opt out of customary international law? What are problematic aspects of the persistent objector doctrine?

2.4 Other Important Factors

General Principles

- What are the two major approaches towards general principles?
- Provide 2—3 examples of what might be considered a general principle of law.

Unilateral Declarations

- Describe the case that generated this area of international law.
- What are some problematic aspects of this case?

Peremptory Norms (Jus Cogens)

- What is a peremptory norm (*jus cogens*)?
- What are some possible peremptory norms?
- What are some of the possible effects of a peremptory norm?
- Why are peremptory norms so politicized? Provide 2—3 examples.

2.5 Case Study Revisited: Are North Korea's Nuclear Tests Illegal?

- How do the topics discussed in this chapter help you to understand this case?
- How would *you* answer the legal and political questions that are raised by this case?¹

¹ Note: Some of these questions may require that you express an opinion or make a value judgment. There is no inherently correct or incorrect opinion/value, but you should be able to support your answer (and argue against alternative opinions/values) using basic facts and logic.