

112年公務人員特種考試外交領事人員及外交行政人員、
國際經濟商務人員、民航人員及原住民族考試試題

考試別：外交人員考試

等別：三等考試

類科組別：外交領事人員類科英文組二

科目：國際法（含國際公法與國際私法）（以英文命題及作答）

考試時間：2 小時

座號：_____

※注意：禁止使用電子計算器。

甲、申論題部分：（75 分）

(一)請以英文作答，不必抄題，作答時請將試題題號及答案依照順序寫在申論試卷上，於本試題上作答者，不予計分。

(二)請以藍、黑色鋼筆或原子筆在申論試卷上作答。

一、In accordance with the 1982 United Nations Convention on the Law of the Sea, please elaborate on what the navigation rights exercised by warships of one country on the high seas, and in the exclusive economic zone, and the territorial sea of another country are? (25 points)

二、An unmanned scientific exploration balloon MD-80 owned by the National Scientific Research Institute of Country A entered the Air Defense Identification Zone (ADIZ) and the territorial airspace of Country B. After learning about it, Country B shot down the MD-80 with missiles, but the falling MD-80 smashed the houses and caused three deaths of Country B nationals. Country A asserted that the voyage of the scientific exploration balloon was solely for the purpose of scientific research, but Country B considered that the balloon had illegally intruded into the space under its jurisdiction. Please analyze this incident according to the rules of international law involved. (25 points)

三、What are the rationale and conditions for recognizing foreign court judgments? (25 points)

乙、測驗題部分：（25 分）

代號：7109

(一)本試題為單一選擇題，請選出一個正確或最適當答案。

(二)共 20 題，每題 1.25 分，須用 2B 鉛筆 在試卡上依題號清楚劃記，於本試題或申論試卷上作答者，不予計分。

- 1 On the relations between municipal law and international law, which of the following statements concerning the status of treaties in the United States is NOT true?
(A) All treaties ratified are supreme law of the United States.
(B) Judges in every state of the United States are bound by all ratified treaties.
(C) All treaties need to be approved by three-fourths of the Senate.
(D) The constitution or laws of any state of the United States cannot contradict all ratified treaties.
- 2 According to the 1969 Vienna Convention on the Law of Treaties, which of the following means is the international act whereby a State establishes on the international plane its consent to be bound by a treaty under the international law?
(A) Adoption. (B) Ratification. (C) Reservation. (D) Authentication of text.
- 3 Concerning the sources of international law that could be applied by the International Court of Justice as provided for in Article 38 of the Statute of the International Court of Justice, which of the following statements is correct?
(A) Judicial decisions are not listed in that Article.
(B) Treaties, international customs and soft laws are listed in that Article.
(C) The teachings of the most highly qualified publicists of the various nations are listed in that Article.
(D) Both general principles of law and the resolutions of international organizations are listed in that Article.
- 4 Which of the following statements concerning human rights protection systems is correct?
(A) European Convention on the Protection of Human Rights and Fundamental Freedoms has not entered into force in Europe.
(B) African Charter of Human and Peoples' Rights has entered into force in Africa.
(C) Asian Charter of the Protection of Human Rights has entered into force in Asia.
(D) American Convention on Human Rights has not entered into force in America.
- 5 Which of the following modes of territorial acquisition refers to the physical expansion of an existing territory of a State by the force of nature?
(A) Occupation. (B) Conquest and annexation.
(C) Accretion. (D) Prescription.
- 6 According to the United Nations Convention on the Law of the Sea, which of the followings is the legal characterization of the Area and its resources?
(A) Res nullius. (B) Marine protected areas.
(C) Common heritage of mankind. (D) Terra nullius.
- 7 Expropriating foreign investments by host states is allowed provided certain conditions are met. Which of the following conditions is NOT included?
(A) For a public purpose. (B) Under a bilateral treaty.
(C) In a non-discriminatory manner. (D) With compensation.
- 8 Which of the following principles refers to a rule of international law that allows a sovereign state to assert jurisdiction over a foreigner whose conduct is outside its boundaries but threatens the national security or interferes with the operation of its government functions?
(A) Territorial. (B) Nationality. (C) Protective. (D) Universal.

- 9 According to Section 18, Article V of the Convention on the Privileges and Immunities of the United Nations, officials of the U.N. shall be immune from local jurisdiction and execution. Which of the following statements is NOT correct?
- (A) They shall be immune from criminal litigation, rather than civil lawsuits, in respect of words spoken or written and all acts performed by them in their official capacity.
 - (B) They shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations.
 - (C) They shall be immune from national service obligations.
 - (D) They shall be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the government concerned.
- 10 Which of the followings is NOT one of the purposes of the U.N. as provided in Article 1 of the U.N. Charter?
- (A) To maintain international peace and security.
 - (B) To develop friendly relations among nations.
 - (C) To be a center for harmonizing the actions of nations.
 - (D) To foster international trade and reduce barriers.
- 11 The World Trade Organization is an important international economic and trade regime under the contemporary international law. Which of the following statements is correct?
- (A) The 1994 Agreement Establishing the World Trade Organization reinforced the procedure and rules of 1947 International Trade Organization (ITO).
 - (B) The WTO Dispute Settlement Body's jurisdiction is over the covered agreements.
 - (C) The final remedy of the WTO dispute settlement included restitution and money compensation.
 - (D) The WTO members may conclude Regional Trade Agreements (RTAs) in accordance with the general exception provision of GATT Article XX.
- 12 Which of the followings may be parties in contentious cases before the International Court of Justice?
- (A) Individuals.
 - (B) Dependent territories.
 - (C) States.
 - (D) International organizations.
- 13 According to the "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)", signed on June 8, 1977, indiscriminate attacks are prohibited. Which of the following conditions constitutes an indiscriminate attack?
- (A) Attacks directed at a specific military objective.
 - (B) Carpet bombings directed at a city.
 - (C) Attacks employing a method or means of combat against a specific military objective.
 - (D) Massive attacks directed at all the tanks and soldiers on the field.
- 14 States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. Which one of the principles conforms to the aforementioned requirement?
- (A) The principle of good neighborhood.
 - (B) The principle of precaution.
 - (C) The polluter-pay principle.
 - (D) The principle of sustainable development.

- 15 In accordance with the current Act Governing the Choice of Law in Civil Matters Involving Foreign Elements where the applicable law is the national law of a party, but the national law of the party differs by reference to sub-national region or another factor, which law shall apply?
- (A) The law of the place in which the party is domiciled shall apply.
(B) The law of the place in which the party is domestic domiciled shall apply.
(C) The law of the capital of the country of the parties shall apply.
(D) The law with which the party is most closely connected shall apply.
- 16 Regarding the standards of characterization, which of the following doctrines is adopted by the R.O.C. courts?
- (A) Lex fori. (B) Lex causae. (C) Lex patriae. (D) Lex loci actus.
- 17 Party A, having its main establishment in Japan, and Party B, having its main establishment in Korea, enter into a contract for the sale of Indonesian phoebe wood in Singapore, which contains a provision stating that all disputes relating to the breach of contract and damages compensation shall be governed by the law of Indonesia. Which law shall be applied by the R.O.C. court if a contractual dispute arises between the parties?
- (A) Japanese law. (B) Korean law. (C) Singaporean law. (D) Indonesian law.
- 18 Which of the following statements regarding the conflict of nationalities is correct?
- (A) A passive conflict of nationalities means that a party has more than one nationality.
(B) Marriage is one of the causes of an active conflict of nationalities.
(C) Article 3 of the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements stipulates that in the event of a passive conflict of nationalities, the law of the place of the party's residence shall apply.
(D) Article 2 of the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements stipulates that when a party has acquired multiple nationalities successively, the national law of the party shall be determined by the "last-in-time" rule.
- 19 Seller A and buyer B conclude a Share Purchase Agreement regarding the control of company C. B sets a mortgage on his Malaysian farm to Bank D, which guarantees B's payment obligations under the agreement. The agreement between A and B stipulates that the operation of company C shall comply with the laws of Singapore, which is the country where C is established, that the rights and obligations of A and B are governed by the laws of Japan, and that Bank D's payment obligations are governed by the laws of Japan. If a dispute arises relating to the mortgage, which country's law shall be applied by the court?
- (A) Malaysia. (B) Singapore.
(C) Japan. (D) The country of A and B's joint establishment.
- 20 Which of the following statements about evasion of the applicable law is NOT correct?
- (A) Evasion of the applicable law has three characteristics: continuity, fraud and illegality.
(B) The laws of the Republic of China that are being evaded in Article 7 of the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements are either compulsory or prohibitory provisions.
(C) Article 7 of the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements places limitations on the freedom of parties to change their applicable law.
(D) An evasion of the applicable law differs from an evasion of law in both means and ends.