

113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：國際公法（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、According to the provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), analyze the power and limitations to seize ships for piracy on the high seas based on the definition of piracy for UNCLOS contracting parties. (25分)

二、It has been about 30 years since the establishment of the World Trade Organization (WTO). The operation of the WTO Appellate Body under the dispute settlement mechanism is on the stage of shutdown. Some WTO members have proposed the "Multi-Party Interim Appeal Arbitration Arrangement (MPIA)" as a temporary alternative for the appellate procedure. Please analyze the main controversies caused by the WTO dispute settlement mechanism, and discuss the MPIA's goal and procedure. (25分)

三、“Jurisdiction” under international law is mainly exercised by states, and international disputes often arise over states’ “extraterritorial jurisdiction”. Please give some examples and explain the interests protected by “extraterritorial jurisdiction” and their possible conflicts with international law. (25分)

乙、測驗題部分：（25分）

代號：6113

(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 Which of the following is NOT correct in terms of treaty interpretation, according to the Vienna Convention on the Law of Treaties?

(A) A treaty shall be interpreted in good faith.

(B) A treaty shall be interpreted in accordance with the special meaning to be given to the treaty's terms in their context and in the light of its object and purpose.

(C) A treaty's preamble and annexes are included in the context for interpretation purposes.

(D) The context for the purpose of interpreting a treaty shall include any treaty-related agreement reached by all parties in conjunction with the treaty's conclusion.

- 2 Under the Vienna Convention on the Law of Treaties (VCLT) of 1969, which of the following statements is NOT correct?
- (A) Under Article 26 of VCLT, every treaty in force is binding upon the parties to it and must be performed by them in good faith.
 - (B) Under Article 27 of VCLT, when the domestic jurisdiction principle is applicable, a party to a treaty may invoke the provisions of its internal law as justification for its failure to perform a treaty.
 - (C) Under Article 28 of VCLT, 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.
 - (D) Under Article 29 of VCLT, unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.
- 3 Which of the following statements concerning the subjects of international law is correct?
- (A) Inter-governmental organizations have become the most important subjects of international law.
 - (B) All kinds of non-self-governing territories are not the subjects of international law.
 - (C) Individuals are not subjects of international law in any case.
 - (D) National Liberation Movements may be subjects of international law.
- 4 Which of the followings is NOT a regional human rights court already established under various regional human rights treaties?
- (A) European Court of Human Rights.
 - (B) Inter-American Court of Human Rights.
 - (C) African Court on Human and People's Rights.
 - (D) Asian Court of Human Rights.
- 5 According to Article 38(1) of the Statute of the International Court of Justice, judicial decisions are subsidiary means for the determination of rules of law. Which of the following statements is correct?
- (A) The decisions of the International Court of Justice have a universal binding force on all States.
 - (B) The judicial decisions as provided under Article 38(1) of the Statute of the International Court of Justice refer to the decisions made by international dispute settlement mechanism.
 - (C) The judicial decisions as provided under Article 38(1) of the Statute of the International Court of Justice also include those decisions made by the domestic courts.
 - (D) The judicial decisions as provided under Article 38(1) of the Statute of the International Court of Justice refer to the decisions of the International Court of Justice.
- 6 Under the UN Convention on the Law of the Sea, the vessels enjoy different levels of navigation rights in various types of maritime zones. Which of the followings is correct?
- (A) The right of transit passage through territorial seas.
 - (B) The right of archipelagic sea lanes passage through the exclusive economic zones of the archipelagic States.
 - (C) The right of innocent passage through the contiguous zones.
 - (D) The freedom of navigation through the exclusive economic zones.
- 7 According to Article 27 of the United Nations Convention on the Law of the Sea, “the criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage.” Which of the following cases is NOT listed as one of the exceptions to the above provision?
- (A) In the case that the consequences of the crime extend to the coastal State.
 - (B) In the case that the crime is of a kind to disturb the peace of the country or the good order of the territorial sea.
 - (C) In the case that the domestic court of coastal State has issued an order to initiate the investigation or proceed the trial.
 - (D) In the case that such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

- 8 According to the United Nations Convention on the Law of the Sea, which of the following statements regarding the regime of islands is NOT correct?
- (A) An island is a naturally formed area of land, surrounded by water, which is above water at low tide.
 - (B) An island could have its exclusive economic zone.
 - (C) Artificial islands do not possess the status of islands.
 - (D) Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone.
- 9 Which of the followings is NOT one of the basic principles may be applied by a State to exercise jurisdiction under international law?
- (A) The concurrent jurisdiction principle.
 - (B) The territorial principle.
 - (C) The protective principle.
 - (D) The passive nationality principle.
- 10 According to the Draft Articles on Responsibility of States for Internationally Wrongful Acts, which of the followings is NOT considered a way to preclude the wrongfulness of conduct that would otherwise not be in conformity with the international obligations of the State concerned?
- (A) Self-defense.
 - (B) The conduct of a person empowered to exercise elements of the governmental authority, if he or she contravenes instructions.
 - (C) Necessity
 - (D) Force majeure.
- 11 Article 1(c) of the Vienna Convention on Diplomatic Relations classifies the "members of the staff of the mission" into three categories. Which of the followings is NOT included?
- (A) The diplomatic staff.
 - (B) The administrative and technical staff.
 - (C) Private servant.
 - (D) The service staff.
- 12 Which of the following international organizations adopts the weighted voting system for its meetings?
- (A) International Energy Agency.
 - (B) International Monetary Fund.
 - (C) United Nations Educational, Scientific and Cultural Organization.
 - (D) World Health Organization.
- 13 Which of the following principles is NOT prescribed, in Article 2 of the United Nations Charter, as those that shall be followed by the U.N. and its members in pursuit of the purposes stated in Article 1?
- (A) The Organization shall ensure that States which are not Members of the United Nations act in accordance with the Principles set in Article 2 of the Charter so far as may be necessary for the maintenance of international peace and security.
 - (B) All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
 - (C) All Members shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements.
 - (D) All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

- 14 Which of the following is NOT one of the United Nations' principal organs, according to the United Nations Charter?
- (A) Trusteeship Council. (B) International Court of Justice.
(C) Secretariat. (D) International Criminal Court.
- 15 Which of the following statements concerning the GATT 1947 and GATT 1994 is NOT correct?
- (A) The Most-Favored Nation Treatment is one of the most important principles in the GATT 1947 and GATT 1994.
(B) The National Treatment is one of the most important principles in the GATT 1947 and GATT 1994.
(C) The GATT 1947 and GATT 1994 stipulate general exceptions and security exceptions.
(D) Neither the GATT 1947 nor GATT 1994 stipulates the settlement of disputes.
- 16 Which of the followings is NOT a mechanism of the third party settlement of international disputes?
- (A) WTO dispute settlement.
(B) International Tribunal for the Law of the Sea.
(C) Investor-State Dispute Settlement.
(D) International Commission for Humanitarian Intervention.
- 17 Which of the following is an "internationalized or hybrid" criminal tribunal that applies to both domestic and international laws?
- (A) International Military Tribunal for the Far East (Tokyo Tribunal).
(B) International Criminal Court.
(C) International Criminal Tribunal for the former Yugoslavia.
(D) Extraordinary Chambers in the Courts of Cambodia.
- 18 Which of the following statements concerning comparisons between the "Treaty on the Non-Proliferation of Nuclear Weapons" and the "Treaty on the Prohibition of Nuclear Weapons" is correct?
- (A) The majority of the parties to the former treaty are nuclear-weapon States, while the majority of the parties to the latter one are non-nuclear-weapon States.
(B) The former treaty came into force in 1970, while the latter one has not yet entered into force.
(C) Only nuclear-weapons States are bound by the former treaty, while all States are bound by the latter.
(D) The former treaty does not explicitly ban nuclear weapons, while the latter one explicitly prohibits the use of nuclear weapons.
- 19 The Paris Agreement under the United Nations Framework Convention on Climate Change aims to limit the increase of global temperature to the extent no more than 2 degrees Celsius. Which year is approximately the base year for the said long-term temperature goal?
- (A) The year of 1750. (B) The year of 1900. (C) The year of 1945. (D) The year of 2000.
- 20 Which is NOT a regional mechanism for the protection of human rights?
- (A) African Court on Human and People's Rights.
(B) Arab Court on Human and People's Rights.
(C) European Court of Human Rights.
(D) Inter-American Commission on Human Rights.