Doctrines (Monroe, Hallstein, Brezhnev, Stimson)
Thomas D Grant

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A. Introduction

1 States from time to time have adopted, by formal expression, doctrines to announce political or strategic interest or intention. Foreign ministries and other State organs produce a great many formal statements, as well as work product in the form of reports, press releases, internal memoranda, and so forth (→ State Practice). The legal significance to attach to a product of a State bureaucracy or other State conduct depends on content, context, and the indicated intention of the State to establish obligations—or not—by a particular act or expression. The particular expressions of State interest or intention which have gained acknowledgement as doctrines may be distinguished from the day-to-day output of State organs in several respects. Doctrines, such as the Monroe, Hallstein, Brezhnev, and Stimson Doctrines, share the following characteristics: a) they are formal statements, issued by high-level representatives of the State, the name of an incumbent Head of State or other high-level decision-makers typically attaching to them (→ Heads of State); b) they are clearly indicated as major expressions of the State that a particular subject-matter is a State interest or that a particular action will be taken in response to a defined situation; c) though sometimes provoked by a particular incident, they are expressed in terms of sufficient generality to establish notice that the State views a stated interest as having enduring significance, or intends to respond to a defined situation, if it arises in the future, in a certain way; d) the doctrinal expression is unilateral (→ Unilateralism/Multilateralism); e) notwithstanding its unilateral character, the expression is intended by the State to have legal consequences for other States, even if these are not indicated specifically or consistently.

2 As might be inferred from these characteristics, the relation between the politico-strategic aspect of a doctrine and its consequences as a statement of law or as an article of State practice contributing to law-making is ambiguous. Each of four commonly referenced doctrines may be instanced, and some observations about them made, individually and as a feature of modern → international law.

B. Monroe Doctrine

3 The independence of the former colonies of Spain and Portugal introduced a new instability to the politics of the western hemisphere in the early 19th century (→ Decolonization: Portuguese Territories; → Decolonization: Spanish Territories). The United States of America (‘US’), perhaps mindful of its position as forerunner of republicanism in the Americas, made it a foreign policy aim to prevent European States from establishing new footholds as against the newly independent States of the region (→ Territorial Integrity and Political Independence). James Monroe, as President of the US (1817–25), expressed this aim in doctrinal form:

[W]e should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States (President James Monroe in Richardson 218).
Monroe’s statement apparently was drafted by John Q Adams, then Secretary of State, and both Adams and Monroe were accomplished lawyers (see Raymond and Frischolz 808–09). The wording of the statement can be taken as deliberate, not only in its obvious political connotations. The phrase ‘controlling in any other manner’ is broad. Perhaps ‘controlling’ means such influence that the State subject to it has lost that independence which characterizes an entity as a State for purposes of international law. This would exclude from the doctrine cases involving only the normal incidents of commercial or social dependence. Yet ‘any other manner’ sweeps up all forms of ‘inter-position’, and it is the ‘destiny’ of the States of the hemisphere—a blurry-edged concept, not a clear-cut legal right—that the doctrine seems to have identified as inviolate. The Monroe Doctrine was formulated in terms to leave the US generous discretion in deciding how to apply it.

Indeed, at times, the emphasis in American application of the doctrine was on its implied licence to intervene in the affairs of other States in the hemisphere. The first notable elaboration on the doctrine was by James K Polk, who, as US President in the late 1840s, indicated that the US would not accept the voluntary transfer of territory in the Americas to a European power (Territory, Abandonment). Proposals for the cession of California and Yucatan by Mexico to a European power thus were declared unacceptable, as were proposed transfers of Cuba by Spain and, later, of the Virgin Islands by Denmark (Islands). The so-called Roosevelt Corollary, set out by US President Theodore Roosevelt in 1904, took the Monroe Doctrine as its starting point, when it stated that the US would not accept interventions by European States for the purpose of collecting debts from States in the Americas (Intervention, Prohibition of). As far as it went, this was consistent with the contemporaneous Drago Doctrine (Drago-Porter Convention [1907]), set out by the Argentinean foreign minister after the 1902–03 European intervention in Venezuela. Luis M Drago said that there would be no more armed interventions to collect debts, a rule incorporated into the Convention Respecting the Limitation of the Employment of Force for the Recovery of Contract Debts of 18 October 1907. Roosevelt endorsed the Drago Doctrine, but with the qualification that the US would serve as debt collector in lieu of European States (see President James Monroe in Richardson 6923). The US, picking up its interventionist strand, identified in the Monroe Doctrine a basis for a number of armed interventions in the western hemisphere (see Vagts [2006] 772).

The Monroe Doctrine also at times exhibited an aspect of regional collective defence. After the armistice between France and Germany in June 1940, the US Secretary of State, Cordell Hull, notified the German and Italian governments, as well as those of the Allied States, that the US ‘would not recognize any transfer’ (Note of the United States to Germany and Italy 681) nor ‘acquiesce in any attempt to transfer, any geographic region of the Western Hemisphere from one non-American power to another non-American power’ (ibid 681–82) (History of International Law, since World War II; History of International Law, World War I to World War II). While States in Latin America in modern times mostly have rejected the Monroe Doctrine, the assertion of a US interest in securing the western hemisphere as against axis aggression during World War II would have been a welcome assurance (see remarks of Senator Warren Austin [12 March 1945] 79th Congress, 1st Session [1945] 91 Congressional Record 2026) (International Law, Regional Developments: Latin America). Roosevelt’s Good Neighbour Policy in the 1930s also involved recasting the Monroe Doctrine as a collective self-defence arrangement (Neighbour States).

The legal effects of the doctrine in municipal law were extremely limited, if they existed at all. For example, the position was rejected that a treaty ceding certain lands to Spain was nullified by virtue of the Monroe Doctrine (see Eastern or Emigrant Cherokees and Western or Old Settler Cherokees v United States). Nor was the doctrine accepted as a basis for
suing the US (apparently, for declining to invade Cuba to recover private property seized from a US citizen following the Fidel Castro revolution) (see Arneson v United States).

C. Stimson Doctrine

8 After the → armed forces of Japan established Manchukuo as a putative new State in the territory of → China, the US declared that it would not recognize territorial changes resulting from aggression (→ Territorial Change, Effects of). Henry L Stimson, as Secretary of State, indicated to Japan and China:

[The US] does not intend to recognize any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which treaty both China and Japan, as well as the United States, are parties (Wheeler-Bennett 262).

9 The Stimson Doctrine, instigated by the 1931 Japanese invasion, may be applied to diverse situations. The presumption against the use or threat of force is fundamental and thus naturally has a corollary in the rules concerning acquisition of territory and the creation of new States (→ New States and International Law; → Territory, Acquisition; → Use of Force, Prohibition of; → Use of Force, Prohibition of Threat). Also, → recognition of new situations by third States is an important mechanism in international relations—even if less important than earlier writers said—so a doctrine that recognition is not to be given to unlawful situations would have some general significance (→ Non-Recognition).

10 Yet sight should not be lost of the connection between the Stimson Doctrine, as originally expressed, and the treaty obligations of the particular States concerned. The US did not take the position that it or other States were obliged under → customary international law not to recognize the putative new State which Japan had carved out of the Manchurian provinces of China, nor is it entirely clear that customary international law in 1931 would have supported such a position. The Stimson Doctrine refers to the → Kellogg-Briand Pact (1928) as the source of the relevant obligation. This by no means excludes that the same or a similar obligation may have existed by virtue of the customary law; much less does it exclude that customary law might have been in the process of developing such an obligation. In the event, the US position rested at the time on the more certain footing of the 1928 multilateral → non-aggression pact[s].

11 The United Kingdom did not initially accept the Stimson Doctrine with respect to Manchuria. Apparently through the influence of the Foreign Office → Legal Adviser[s] it did however shortly afterwards support its adoption by the → League of Nations (‘League’) (see Carty and Smith 137–39; see also Turns 123). According to the League Resolution of 11 March 1932:

[I]t is incumbent upon the members of the League of Nations not to recognize any situation, treaty, or agreement which may be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris (League of Nations Official Journal 87).

12 The doctrine also was taken up in various inter-American → treaties, eg the Declaration of Nineteen American Republics of 3 August 1932 in the → Gran Chaco Conflict (1928–35), the → Saavedra Lamas Treaty (1933), and the Montevideo Convention on the Rights and Duties of States of 26 December 1933 (→ States, Fundamental Rights and Duties).
The United Nations (UN) General Assembly (‘UNGA’) on at least two occasions has restated the principle underlying the Stimson Doctrine. The declaration adopted by UNGA Resolution 2625 (XXV) of 24 October 1970 under its first principle—prohibition of threat or use of force—states, inter alia: ‘No territorial acquisition resulting from the threat or use of force shall be recognized as legal’ (at 123) (Friendly Relations Declaration [1970]). Article 5 (3) of the definition of aggression adopted by UNGA Resolution 3314 (XXIX) of 14 December 1974 provides that ‘[n]o territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful’. The principle was also restated in the Declaration of Principles Guiding Relations between Participating States, one of the components of the Conference on Security and Co-operation in Europe → Helsinki Final Act of 1 August 1975 (Helsinki Final Act; → Organization for Security and Co-operation in Europe [OSCE]). This declaration provides, inter alia, in its fourth principle—territorial integrity of States—that ‘[n]o … [military] occupation or acquisition [by means of direct or indirect measures of force in contravention of international law] will be recognized as legal’ (Occupation, Belligerent; Occupation, Pacific). The doctrine is echoed in Art. 41 (2) Responsibility of States for Internationally Wrongful Acts (and draft Art. 44 (2) Articles on Responsibility of International Organizations), whereby the prohibition is stated against recognizing as lawful a situation created by a serious breach of a peremptory norm.

The wider, if in some instances tacit, subscription which the Stimson Doctrine acquired might suggest that the law was developing toward its installation as a general rule. This at any rate is the position that Judge Skubiszewski takes in the Case concerning East Timor (Portugal v Australia) (‘East Timor Case’) (International Court of Justice [ICJ]): ‘The rule or, as Sir Hersch Lauterpacht says, the principle of non-recognition now constitutes part of general international law’ (at 262) and the Stimson Doctrine was ‘pioneering … in this development’ (ibid). The combination of the words ‘rule or…principle’ is somewhat equivocal. If the Stimson Doctrine was the start of a process of customary international law formation for a rule prohibiting recognition of situations resulting from unlawful acts, then the East Timor Case tested the extent to which the proposed rule had been accepted. The result was inconclusive. The non-recognition of the annexation of the Baltic States after 1940, of Kuwait in 1990–91, and of the Crimea region of Ukraine in 2014 might be characterized as applications of the Stimson Doctrine, though in later years States did not generally refer to the doctrine by name when rejecting unlawful annexations (Iraq–Kuwait War [1990–91]).

International acceptance of the results of the civil war in Bosnia and Herzegovina raises questions however as to the extent of entrenchment of a Stimson Doctrine of non-recognition (Bosnia-Herzegovina). The Dayton Line, separating two territorial entities within a reconstituted Bosnian State, was a pragmatic compromise (Peace Treaties), but it also tended to validate ethnic cleansing carried out against Bosnian Muslims (Yugoslavia, Dissolution of). Such a compromise, ultimately unsatisfactory, is perhaps best referred to Hans Kelsen’s concept of the normative force of the factual (International Legal Theory and Doctrine; Legal Positivism).

D. Hallstein Doctrine

In the first decades after 1949, it was the view of the Federal Republic of Germany (‘FRG’) that the German Democratic Republic (‘GDR’) was not a State and that recognizing it as such was not consistent with the international legal position of post-war Germany. According to Chancellor Konrad Adenauer, addressing the Union of Soviet Socialist Republics (‘USSR’) on 22 September 1955, the Federal government was still as before the only free and lawfully constructed German government, alone holding authority to speak for Germany as a whole. With regard to third States as well the FRG adhered to its previous
position concerning the so-called GDR. Adenauer declared unequivocally that the Federal government in the future would regard the establishment of diplomatic relations with the GDR by third States with which the FRG maintained official relations as a hostile act (see Deutscher Bundestag 5646 (B)–47 (A)).

17 Walter Hallstein, as State Secretary for Foreign Affairs of the FRG, reiterated Adenauer’s statement the following year, and the position became known as the Hallstein Doctrine (see Steinberger 729–30).

18 The FRG, acting under the Hallstein Doctrine, severed diplomatic relations with Yugoslavia (1957) and Cuba (1963) (→ Diplomatic Relations, Establishment and Severance), following their respective announcements of the establishment of diplomatic relations with the GDR (see Ministerium für Auswärtige Angelegenheiten [1957] 158–59; see also Ministerium für Auswärtige Angelegenheiten [1963] 412–13). A question arose whether the Hallstein Doctrine, as expressed, meant that the FRG would break off diplomatic relations with a State merely recognizing the GDR, or if the doctrine applied only to instances of a State upgrading its relations (eg sending an ambassador, where it had previously maintained only a consulate [→ Consuls]). The more limited interpretation prevailed.

19 This had, for a time, the effect of impeding the growth of the international relations of the GDR. States—if mindful of avoiding formal expressions that might fall foul of the West German position—nevertheless increased their diplomatic contacts to the GDR. The adoption of the Neue Ostpolitik (New Eastern Politics; translation by the editor) by Chancellor Willy Brandt after 1969 led to mutual recognition of the two German States under the Treaty on the Basis of Intra-German Relations of 21 December 1973. The UN admitted both the GDR and FRG as Member States in 1973 (see → United Nations, Security Council ['UNSC'] Res 335 [1973] [22 June 1973]; see also UNGA Res 3050 [XXVIII] [18 September 1973]), and the Hallstein Doctrine was no longer West German policy.

20 Yet the FRG was not the last State to use diplomatic measures to deter third States from recognizing a putative State or other situation. Morocco did so, to deter States from recognizing the Sahrawi Arab Democratic Republic ('SADR'); Greece, with respect to the Turkish Republic of Northern → Cyprus ('TRNC'); and, most notably, China with respect to → Taiwan. It is difficult to evaluate the strategy as a tool of international relations, for in every case in which it has been applied; other factors can be identified, militating for or against international acceptance of the challenged situation. The status of Western Sahara as a non-self-governing territory per se entitled to determine its own final disposition appears to have influenced a large number of States to recognize the SADR (→ Non-Self-Governing Territories; → Western Sahara [Advisory Opinion]), notwithstanding Moroccan objection. Nearly universal isolation of the TRNC must be referred to international condemnation of the Turkish intervention in Cyprus and the UNSC rejection of the Turkish Cypriot Declaration of Independence. The status of Taiwan as a territory—as yet—not claiming independent statehood makes any conclusions about the deterrent effect of a Hallstein-like stratagem in that situation likewise uncertain.

21 Apart from its → effectiveness as foreign policy, the Hallstein Doctrine—in both its original application and kindred examples from State practice—is more readily evaluated as a legal measure. The objection might be made that the Hallstein Doctrine amounts to a form of secondary → boycott, one State pursuing its policy toward another by taking punitive measures against a third. However, this objection would seem to be avoided so long as actions taken under the terms of the Hallstein Doctrine are restricted to severance of diplomatic ties. Whether or not to maintain—or establish—diplomatic relations with a State is a matter of absolute discretion for the sending State. Nevertheless, after the severance of
diplomatic relations by the FRG with Yugoslavia in 1957, the latter protested as against an alleged interference in its internal affairs (see Steinberger 730).

E. Brezhnev Doctrine

22 Reforms undertaken in 1968 in Czechoslovakia were rejected by the Soviet Union, which led a Warsaw Pact military intervention to remove Alexander Dubček as First Secretary of the Communist Party. Earlier Soviet interventions to maintain the allegiance of governments of Eastern Bloc States had occurred in 1953 (GDR) and 1956 (Hungary). Following the 1968 intervention, the Soviet Union articulated the position that it would act to prevent deviations from the socialist system among its allies:

> [E]ven if a socialist country seeks to take an ‘extra bloc’ position, it in fact retains its national independence thanks precisely to the power of the socialist commonwealth—and primarily to its chief force, the Soviet Union—and the might of its armed forces. The weakening of any link in the world socialist system has a direct effect on all the socialist countries, which cannot be indifferent to this. Thus, the anti-socialist forces in Czechoslovakia were in essence using talk about the right to self-determination to cover up demands for so-called neutrality and the C.S.R.’s withdrawal from the socialist commonwealth... The Communists of the fraternal countries naturally could not allow the socialist States to remain idle in the name of abstract sovereignty while the country was endangered by antischolar degeneration... The class approach to the matter cannot be discarded in the name of legalistic considerations ... Such an approach to the question of sovereignty means, for example, that the world’s progressive forces could not oppose the revival of neo-Nazism in the F.R.G., the butcheries of Franco and Salazar or the reactionary outrages of the ‘black colonels’ in Greece, because these are the ‘internal affairs’ of ‘sovereign States’ (Kovalev 4) (→ Self-Determination; → Sovereignty).

23 The Brezhnev Doctrine in part resembles the Monroe Doctrine: both are assertions that change within a certain geographic sphere will not be tolerated by the dominant regional State. However, the Brezhnev Doctrine differs in its rejection of the separateness of internal from international affairs and its position that intervention to preserve socialist government is justified, as against ‘antisocialist’ and ‘legalistic’ concepts of independence.

24 Though some Soviet publicists emphasized power relations in Europe to justify the Brezhnev Doctrine, others sought to assimilate the doctrine into international law. Evgenij T Usenko called it the ‘principle of socialist mutual assistance’ (at 196–97). Grigorij I Tunkin referred to the doctrine as ‘proletarian internationalism’ (at 444) and said that it was a → ius cogens norm. Even so, it would have been difficult to accept the Brezhnev Doctrine as a legal rule, without either placing it on a conventional basis or admitting a fragmentary tendency toward a special regional law. Both were done, the USSR concluding a number of bilateral → treaties with its bloc allies after 1968 to formalize the Brezhnev Doctrine, and Soviet writers referring to it as part of ‘socialist’—as distinct from ‘bourgeois’—international law (→ Marxism; → Regional International Law).

25 Some further comparison is invited, as between the Monroe and Brezhnev Doctrines. While the Monroe Doctrine, less its implied right of intervention, could be assimilated into the modern position that collective self-defence is a lawful exception to the prohibition against use of force, the Brezhnev Doctrine is difficult, or impossible, to reconcile with international law. The Brezhnev Doctrine posits a right to determine the political characteristics and external orientation of the government of a State. International law has not as yet established such a right. If the view is taken that a right of intervention is developing to change—or preserve—a particular form of government, then the right in statu nascendi relates to democracy (→ Democracy, Right to, International Protection) or basic
human rights. It has been suggested, for example, that a legal basis for interventions after the early 1990s in Haiti (→ Haiti, Conflict), → Kosovo, and Iraq is found in a right to promote democracy or to end gross violations of human rights (→ Humanitarian Intervention; → Humanitarian Law, International). It is not argued that a right of intervention exists to change or preserve a particular economic system.

26 → Consensus would have to be reached on at least three matters, before a rule could be adopted allowing armed intervention to secure or restore a particular form of government. First, a standard respecting government would have to be formulated, answering the question, what form of government is it the aim of international law to preserve or promote? Second, evidence would have to be interpreted in particular cases, answering the question, whether the preferred form of government has been put at risk (or not yet established)? And, third, it would have to be agreed that the net systemic costs of overriding the presumption against use of force would be outweighed by the benefits. In an international system containing States with diverse systems of government and divergent strategic interests, a uniform appreciation will seldom exist, respecting any, much less all three, of the above. Therein lies a problem with the Brezhnev Doctrine, and this would remain, even if it was shorn of its association with the Soviet system of government.

27 The USSR did not apply the Brezhnev Doctrine, as against Poland during the solidarity disturbances of the early 1980s. It was finally repudiated during the era of glasnost. The Brezhnev Doctrine, aside from its historic interest, will remain significant, if at all, as a point of reference against which States may contrast their own justifications for armed intervention. The invalidity of the Brezhnev Doctrine was presumed by the US, when that State said that its intervention in → Grenada could not be equated to Soviet interventions. The US Department of State Legal Advisor in 1984 distinguished the intervention in Grenada from those in Czechoslovakia and Hungary, on three main grounds: a) the Grenada intervention was supported by a regional organization (→ Organization of Eastern Caribbean States [OECS]; → Regional Co-operation and Organization: American States); b) it was at the request of the Governor General of Grenada; and c) the US armed presence was of short duration (see Nash Leich 661–62).

28 The US position upon the landing of Marines in the → Dominican Republic (28 April 1965) had been similar: → Organization of American States (OAS) approval was referred to as a legal basis, and protection of American lives and property was cited as a further rationale for intervention. The anti-communist motivation, while not absent in the case of Grenada, had been considerably more explicit in that of the Dominican Republic. An element of regional collective defence was also overt in the earlier case. According to US President Lyndon B Johnson, ‘[t]he American nations cannot, must not, and will not permit the establishment of another Communist government in the Western Hemisphere’ (Statement by President Johnson 746). Contemporary commentators referred to a ‘Johnson Doctrine’ (Fleming 135) or ‘Johnson Corollary’ (The Johnson Corollary). Writers noted the similarities to the Brezhnev Doctrine and criticized the intervention in that light (see Franck and Weisbrand).

29 The earlier Truman Doctrine had narrower geographic scope—Greece and Turkey—and did not posit a right of armed intervention. It stated instead American intent to ‘support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures’ (Truman 178–80).
The main manifestation of the Truman Doctrine was economic assistance to the Greek and Turkish governments. Its relation, then, may be closer to the Marshall Plan than to the Monroe or Johnson Doctrine (Marshall Plan [European Recovery Program]). There is no international law rule to say whom a State may support, at least so long as ‘support’ means economic assistance.

F. Legal and Political Aspects

A question may be raised as to the balance between legal and political aspects in the four doctrines discussed. There is a clear association between the doctrines and the political exigencies of international relations, especially as conducted by powerful States. By contrast, the International Law Commission (ILC) scarcely mentioned the doctrines in over a half century of session reports (1949–2006), and reliance on them as a source in legal argument before courts and tribunals is similarly sparse. As noted, US courts rejected attempts to base actions on the Monroe Doctrine. That a proposition does not have legal consequences for private claimants in a national legal system, however, by no means precludes the proposition having legal consequences for States under international law. And it is not in itself inconsistent, that an article of State practice with definite legal consequences resulted from political calculation. Politics is to be found somewhere in the background to nearly all legal decisions. A characterization of the legal, as distinct from political, aspects of a particular statement or incident often will be a matter of assessment. The present writer’s assessment of the doctrines discussed above now may be presented.

1. Doctrines as International Engagements

It was the intention of the States articulating the doctrines that each would have legal consequences for other States, even as the unilateral character of the initial expressions of each doctrine had to be conceded (Unilateral Acts of States in International Law).

The US, for example, in at least three instances made reservations or sought dispensations relative to the Monroe Doctrine. The International Convention regarding the Pacific Settlement of International Disputes of 29 July 1899 (Hague Peace Conferences [1899 and 1907]; Peaceful Settlement of International Disputes; Permanent Court of Arbitration [PCA]), was accompanied by a US declaration relative to Art. 27, asserting that the third-party dispute settlement provision was not to derogate the principle of excluding European powers from western hemisphere affairs (see International Convention regarding the Pacific Settlement of International Disputes 426–27). The US made a reservation respecting the Monroe Doctrine, when it adopted the Kellogg–Briand Pact, and Art. 21 Covenant of the League (‘League Covenant’) provided, ‘[n]othing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine’. It is noteworthy that third States would incorporate an acknowledgement of the Monroe Doctrine into a multilateral treaty—and, moreover, refer therein to the doctrine as an ‘international engagement’ and ‘regional understanding’.

The US itself took the view—though not consistently—that the Monroe Doctrine was a legal, not merely political, expression, and that other States would be expected to see it as such. The doctrine was referred to as a legal basis for interventions in the western hemisphere, though, apparently, not after World War II. It nevertheless continued to be treated as relevant to US practice. In the Selden Resolution, by which the House of Representatives expressed its opposition to communist expansion in the western hemisphere, the traditional US role as set out by Monroe was reaffirmed (see HR Res 560 89th Congress 1st Session [1965] 111 Congressional Record 24, 347). As late as 1967, the doctrine was listed as a binding international commitment of the US (see US Commitments...
to Foreign Powers 1134–36). Oppenheim, in the second edition of his treatise (1911) said that the doctrine was lawful (at 196–99).

35 As noted above, the Soviet Union, with regard to the Brezhnev Doctrine, also characterized the doctrine as an international engagement—a position cultivated by the post-1968 bilateral Eastern Bloc treaties. The manner in which a State characterizes its own acts may well have some dispositive weight.

2. Relation to ‘Spheres of Influence’

36 The Monroe Doctrine and the Brezhnev Doctrine are linked to the idea that certain States exercise a high degree of effective power within more or less defined regions. The two non-recognition doctrines are not special assertions of extraterritorial right, though a State which articulates a doctrine of non-recognition might be seen by its adversaries, too, as claiming a sphere[s] of influence. Thus the Stimson Doctrine could have aroused objection as an American intrusion into East Asian affairs, or the Hallstein Doctrine as a vehicle for western designs against the GDR. Those however were poorly grounded objections. The legal basis has been widely accepted for a State to withhold recognition from certain situations, and, indeed, States may be obliged to withhold recognition from situations arising from unlawful use of force. The non-recognition doctrines, compared to the Monroe and Brezhnev Doctrines, are modest claims, consistent with the rights of a State to respond to developments outside its jurisdiction or effective control.

37 Assertions of spheres of influence, such as may be inferred from the Monroe and Brezhnev Doctrines and from statements and conduct of the Russian Federation from around 2008 onward, are by contrast less clearly lawful. It is not that anyone doubts that certain States do exercise a high degree of effective power over other States, especially in regions of particular interest to them. The question is whether such a factual situation can be turned into a legal relation, solely on the basis of the powerful State declaring a sphere of influence, whether under a defensive or solidarity doctrine, or in other terms. It will be recalled that classic spheres of influence, as were asserted by the European States in the 19th and early 20th centuries relative to parts of Africa, Persia, and Siam, were in the form of contractual undertakings between European States (Colonialism). The formal problem of unilateralism might not have been raised in such situations, the sphere having been agreed to by two States, not asserted by one alone. But the substantive problem was presented as much as in the claims under the various doctrines: in both situations, the State or other community whose rights were derogated from by the arrangement was not consulted as would have been required in modern international law.

38 There may well be benefits for international order, in ascribing legal consequence to declarations of spheres of influence, including those implied by the doctrines considered above. In particular, such declarations may communicate expectations between States, and thus reduce the instability that results when States are unsure what in truth their adversaries value (see Reisman [1982] 589). The costs may be measured in fragmentation, loss of comity, intrusion against domestic jurisdiction, and derogation of the presumption that every State determines its own international relations within the law (Fragmentation of International Law).

3. Doctrines as Unilateral Acts Intended to Establish General Obligations

39 The legal, as distinct from political, significance of the doctrines is perhaps that, as articles of State practice, they may contribute to the formation of rules of customary international law. Their relation to customary international law may be briefly considered.
40 The non-recognition doctrines, especially the Stimson Doctrine, with its potentially wider application, can be seen as steps toward a general position that acts tending to validate unlawful situations should be avoided. States and international organizations indeed took an approach to → Rhodesia/Zimbabwe, → Namibia, the South African Homelands, and Northern Cyprus that suggests an unwillingness to lend support where a ius cogens rule has been breached. Yet, as seen in connection with the modern cases, the precise legal incidents of non-recognition continue to be referred to express international undertakings, in particular resolutions of the UNSC, not—or not mainly—to customary international law.

41 The statement in the League Covenant that the Monroe Doctrine was a—presumably valid—regional understanding (see para. 32 above) suggests the development of a general—or at least regional—rule out of an act that, in the first instance, was little more than a unilateral assertion. This in itself however does not indicate the substance of the rule or rules it was the object of the understanding to develop. One concern in the Americas was to lend a semblance of stability to newly internationalized boundaries that, before independence, had been internal administrative divisions of various imperial provinces and vice-royalties—and, in many places, rather obscurely defined. The Monroe Doctrine was related by Judge Ajibola to the principle that post-colonial boundaries are not to be challenged (→ Uti possidetis Doctrine). The Monroe Doctrine in this view was adopted ‘to ward off possible re-colonization of the territories by declaring there was no res nullius’ (Territorial Dispute Case [Libyan Arab Jamahiriya/Chad] 85(→ Territorial Dispute Case [Libyan Arab Jamahiriya/Chad]).

42 It has also been suggested that inherent in the Monroe Doctrine was the idea of a regional arrangement for collective self-defence. American writers hastened to distinguish the Monroe Doctrine from the Brezhnev Doctrine, by emphasizing the aspects of collective self-defence that they said existed in the former and were lacking in the latter (see Moore 115). In this view, the Monroe Doctrine was precursor to the → collective security arrangements adopted after World War II, especially Chapter VIII → United Nations Charter and Chapter VI Charter of the OAS (→ Bogotá Pact [1948]). Though expressed unilaterally by the US in the early 19th century, the Monroe Doctrine, in its self-defence aspect, was eventually accepted by the region as a whole. If this is the position taken, then the Monroe Doctrine is an example of a unilateral act serving as starting point for the formation, through later practice and acceptance, of a new rule of customary international law.

43 Yet the problems of any attempt at law-making that begins in unilateral mode should not be ignored. If one State can assert a regional understanding without the express → consent of other States in the region, what prevents States elsewhere from doing the same—and what assurance exists that all such understandings will be as benevolent as a plan for collective self-defence? Carl Schmitt, at least for a time the Nazis’ chief jurist, identified the Monroe Doctrine as the precedent for a Nazi Großraumprinzip (principle of ‘grand space’; translation by the editor) (see at 23–39). The defensive aspect of the Monroe Doctrine thus all too readily could be used as a cloak for a programme of regional → hegemony. Schmitt’s intellectual debt to the Monroe Doctrine has been noted (Vagts [2001] 844; Vagts [1990] 684). Misuse of a legal concept does not necessarily invalidate it, but parallels between the Monroe Doctrine and later doctrines formulated with aggressive intent may be taken as cautionary.
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