



DISCUSSION PAPER

Coercion and Consequences: Examining the Validity of the U.S.-Ukraine Mineral Agreement

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Introduction

Although President Donald Trump has portrayed the signing of the long-sought mineral agreement, granting the United States a share in Ukraine's rare earth elements as a diplomatic victory, achieved through persistent efforts and an unconventional diplomatic tone towards his Ukrainian counterpart Volodymyr Zelenskyy, the agreement's validity under international law remains highly questionable, irrespective of its political and economic ramifications.

In international law, the conclusion of interstate treaties is fundamentally predicated on the contracting parties' free will and sovereign equality. However, the pressures and threats exerted by the United States during the negotiation process have cast serious doubt on whether Ukraine agreed to its own free will on the minerals deal. This raises the highly specific legal issue of whether Ukraine may annul the agreement and seek to

eliminate its effects on the grounds of coerced consent, thereby shifting the discussion from the realm of international relations into the domain of international law. In particular, the United States' threat to suspend its massive military assistance to Ukraine—which, according to some, is the principal reason Kyiv has not yet 'fallen' to Moscow since 2022—prompted Ukraine, initially resistant, to return to the negotiating table and ultimately to sign an agreement containing significant advantages for the United States, in stark contrast to its earlier statements.

At this juncture, it becomes crucial to determine whether the threat to withhold aid constitutes a "use of force" under [Article 52](#) of the Vienna Convention on the Law of Treaties (VCLT), potentially rendering the agreement void. Addressing this issue is of particular importance not only for the fate of the current mineral agreement but also as a precedent for similar cases that may arise in the future.



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The Invalidity of Treaties Concluded under Coercion

While in the law of international treaties, the foundational principle governing the conclusion of inter-state agreements is the freedom of consent, the legitimacy of treaties concluded under the threat or use of force remains a profoundly contested issue in international law, giving rise to divergent approaches and extensive debate. (Corten, 2011)

While state consent is generally regarded as central to the binding force and legitimacy of international or interstate obligations, it is widely recognised that such consent must be both informed and voluntary; obligations procured through coercion, including threats or actual use of force, are highly problematic and challenge the very foundation of legitimate legal authority in international relations. (Lefkowitz, 2023) This tension between the consensual basis of treaty law and the prohibition of coercion continues to generate significant scholarly and practical controversies within the discipline.

The primary legal instrument governing the validity of treaties, the 1969 Vienna Convention on the Law of Treaties (VCLT), addresses this tension explicitly. Article 52 of the Convention states, **“A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.”** A non-binding United Nations [Declaration](#) further reinforces this unequivocal prohibition against coercive treaties annexed to the VCLT,

denouncing all forms of pressure, including political and economic coercion, that aim to compel a state to enter a treaty. Nevertheless, despite the clarity of the language used in Article 52, this prohibition’s precise scope, applicability, and legal consequences remain complex and require careful and nuanced analysis. This is particularly relevant given that the law of treaties directly engages with the principle of state sovereignty and, in practice, many of the most contentious disputes in contemporary international affairs stem from contested treaty obligations between states (Besson, 2011). Accordingly, any discussion on the invalidity of treaties concluded under coercion must be situated within the broader legal and political contexts in which such agreements arise.

At the heart of this inquiry lies the ‘use of force’ concept in international law, including ongoing debates over how its definitional boundaries should be drawn and how these principles are applied in contemporary state practice (Partridge Jr). Whether coercive measures extend beyond overt military force to encompass forms of economic or political pressure remains a subject of considerable discourse. The VCLT’s *travaux préparatoires* and subsequent state practice also offer a critical lens through which to approach these debates, facilitating a deeper understanding of both the legal uncertainties inherent in treaty-making processes and the evolving nature of coercion in forming international agreements.



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The Concept of ‘Use of Force’ in International Law

In international law, “use of force” is subject to differing interpretations. Two primary schools of thought dominate the debate: the narrow and the broad approaches. These perspectives diverge in how they define and limit the scope of what constitutes a prohibited use of force between states.

The narrow interpretation restricts the notion of force to overt acts of military aggression, such as armed attacks, military threats, blockades, bombings, and direct interventions by one state against another. This view is firmly grounded in a literal reading of [Article 2\(4\)](#) of the United Nations Charter. It is shaped by the historical development of international law following the catastrophic consequences of World War II. Proponents argue that the main objective behind prohibiting the use of force was to avert a repeat of such widespread devastation. Therefore, they believe “force” should be understood exclusively as armed action (Kayhan, 2021; Arsava, 2012).

A central justification for this narrow approach is the principle of legal certainty. Advocates maintain that by confining the definition of force to clear-cut military actions with identifiable triggers, actors, and established legal precedents, international law achieves greater predictability and stability. Expanding the definition to include other forms of coercion, such as economic sanctions, cyber operations, or propaganda, would, they argue, introduce ambiguity and subjectivity, undermining the reliability of the legal system. Furthermore, by limiting

the concept of force to armed attacks, this approach also restricts the unilateral invocation of self-defence, thereby reducing the risk of conflict escalation and promoting the maintenance of international peace and security.

In contrast, the broad interpretation advocates for a more inclusive understanding of the use of force, extending the concept to encompass non-military forms of coercion. This includes severe economic pressure, cyberattacks, and political interference, particularly when such actions threaten a state’s sovereignty or political independence. Supporters of this broader view contend that non-kinetic means of exerting influence in today’s interconnected world can be as coercive and destabilising as traditional military force. They point out that powerful states increasingly employ economic and technological tools to pressure weaker nations into compliance with their strategic objectives, highlighting the need for an updated legal framework that reflects these evolving realities.

Although this broader interpretation has gained traction among academics and states, especially in the Global South, it remains contentious and is not firmly established in binding international law. Nevertheless, specific United Nations declarations, such as the 1970 Friendly Relations Declaration and the 1974 Charter of Economic Rights and Duties of States, lend normative support to the idea that economic coercion may sometimes violate international law.

Approach Adopted by the VCLT

From the standpoint of Article 52 of the VCLT, it is evident that the provision’s language does not expressly restrict the concept of “force” to military means alone. Nor does it confine its application solely to the parameters set by Article 2(4) of the United Nations Charter, which is traditionally associated with military coercion. Instead, Article 52 adopts a broader approach, referencing violations of the fundamental principles of international law as embodied in the Charter. These foundational principles encompass, among others, the sovereign equality of states and the prohibition against intervention in the internal affairs of other states (Dörr & Kirsten, 2018). As a result, alternative

forms of coercion, such as economic or political pressure, may also fall within the ambit of Article 52, provided they constitute a breach of these essential norms. This more expansive interpretation also finds further support in the *travaux préparatoires* of the VCLT.

While proposals to explicitly mention economic and political coercion in the text of Article 52 were ultimately not adopted during the drafting process, the accompanying United Nations Declaration-passed with overwhelming support (102 votes in favour, only four abstentions)-condemns the use or threat of pressure in any form,

whether military, political, or economic, to compel a state to conclude a treaty in violation of its sovereign equality and freedom of consent. This demonstrates an international consensus that non-military forms of coercion may, under certain circumstances, also serve to invalidate treaties. Nevertheless, recognising the inherent challenges in clearly defining the boundaries of non-military coercion, especially when compared to the more tangible concept of military force, states agreed during the VCLT's drafting that such issues, despite their importance, should be addressed in a supplementary rather than binding manner, leaving their further development to evolve through state practice. Although the Declaration does not possess the same binding legal force as the Convention itself, it nonetheless serves as a vital interpretative tool under Article 31(2)(b) of the VCLT. This provision acknowledges the relevance of instruments in connection with a treaty's conclusion.

Even though the recognition that economic and political coercion may invalidate a treaty in certain situations

is consistent with the fundamental principle of free and genuine consent- an indispensable norm in both domestic and international legal systems, it is important to emphasise that not every instance of economic or political pressure will render a treaty invalid. To ensure legal certainty, maintain stability in international relations, and prevent the opportunistic exploitation of treaty provisions by contracting parties, the threshold for invalidity under Article 52 remains deliberately high. Only those threats or coercive measures comparable in severity and effect to the use of military force, such that the coerced state is left with no reasonable alternative but to accept the imposed terms, will satisfy this threshold. In most cases, economic or political coercion does not reach this level of gravity and does not affect the treaty's validity.

However, in rare and exceptional circumstances where such coercion effectively deprives a state of its free will, the resulting treaty may be rendered void under Article 52, as in the mineral deal case.

U.S. Pressure on Ukraine

As discussed above, the mineral agreement signed between the United States and Ukraine has given rise to highly unusual and significant legal controversies beyond its political and economic implications, particularly with respect to its validity on the grounds that Ukraine's consent to its conclusion may have been vitiated. The agreement, which was concluded on April 30, 2025, has come under close examination due to claims that it was reached under duress, with allegations pointing to coercive military, political, and economic pressures exerted by the United States on Ukraine.

Since 2022, the United States has provided Ukraine with approximately [\\$67 billion](#) in military assistance, accounting for roughly 60% of Ukraine's total defence spending. The prospect of this critical aid being suspended led to fraught negotiations over the mineral agreement in February and March 2025. While some actions during this period might have been considered standard diplomatic bargaining in a usual time, in the context of Ukraine's ongoing conflict with Russia, a major military power, these measures arguably amounted to coercion, placing Ukraine in a precarious position with little room for manoeuvre.

U.S. military support, including advanced air defence systems, long-range missiles, and satellite communications, remains essential for Ukraine's defence against Russian

aggression. Recognising Ukraine's dependence on this aid, the U.S. administration reportedly made continued assistance contingent on Ukraine agreeing to transfer 50% of its rare earth revenues, framed as repayment. This demand was first raised during a visit to Kyiv by U.S. Treasury Secretary Scott Bessent on February 12, 2025. Ukrainian President Volodymyr Zelenskyy [rejected the proposal](#), comparing it to colonial-era treaties and citing Article 13 of the Ukrainian Constitution, which affirms state ownership of natural resources.

Tensions escalated during a highly publicised meeting at the White House on February 28, where Ukrainian officials were threatened with the withdrawal of U.S. support. President Trump is [said to](#) have delivered an ultimatum to his Ukrainian counterpart: "Sign the deal, or lose your country." Following this, the Pentagon [halted](#) all military shipments to Ukraine and [suspended](#) intelligence sharing. Trump's advisor, Keith Kellogg, said these steps were intended as a forceful negotiating tactic. The immediate impact was felt on the battlefield: within two weeks, Russian forces advanced in Kharkiv, Ukraine exhausted its air defence supplies, and communication capabilities were disrupted due to the suspension of satellite services.

Confronted with the imminent collapse of its military position and the loss of vital support, Ukraine returned to the

negotiating table. Although the final agreement included some improvements for Ukraine, such as maintaining control over key state enterprises, it still provided the U.S. with significant legal and economic advantages. Under the terms, 50% of Ukraine's mineral revenues will be directed to a U.S.-controlled account, with all expenditures subject to American approval. The U.S. also secured a right of first refusal on mining projects, prohibiting Ukraine from offering better terms to other countries. Additionally, the agreement grants the U.S. access to the majority of new mining zones and gives the treaty precedence over Ukrainian domestic law. If Ukraine raises mining taxes, U.S. companies are exempt, and revenues managed by the fund are not subject to Ukrainian taxation.

Given these provisions, which substantially limit Ukraine's economic sovereignty, the question arises whether the methods used by the United States constitute "use of force" under international law, potentially rendering the agreement void.

At first glance, the suspension of aid and other actions by the U.S. might appear as legitimate foreign policy tools. However, considering Ukraine's acute dependence on this support during wartime, the threat to withhold it may have crossed the threshold of coercion as defined by Article 52 of the VCLT. In effect, the consequences for Ukraine could be seen as functionally equivalent to the direct use of force coming from the U.S.

Although U.S. pressure may not constitute an explicit threat of armed force under Article 2(4) of the UN Charter, it can be argued that it indirectly facilitated Russia's unlawful use of force against Ukraine, a violation prohibited by the same article. The United States, by leveraging the ongoing conflict, effectively benefited from another state's illegal use of force to secure an agreement from Ukraine that it would not have otherwise accepted. This form of coercion, therefore, may be legally indistinguishable from direct force applied by the U.S. itself.

Notably, Article 52 of the VCLT does not require that the coercive force originate from the state benefiting from the agreement. Instead, a textual interpretation of the provision suggests that any treaty "procured by the threat or use of force" may be invalidated, regardless of whether the beneficiary or a third party applies the force. The absence of a requirement that the coercing and benefiting states be identical recognises that indirect coercion can also undermine the validity of a treaty.

In summary, the possibility of invalidating a treaty on the grounds of coercion does not depend on the identity of the coercing party. Given that the United States capitalised on Russia's unlawful use of force and imposed an agreement on Ukraine under circumstances incompatible with genuine consent, there is a strong legal and normative basis for considering the mineral agreement void under international law.



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The Fate of the Minerals Deal

While the arguments outlined above demonstrate the potential invalidity of the mineral agreement under Article 52 of the VCLT, the ultimate determination of the agreement's fate rests with the aggrieved party: the Ukrainian state. In other words, even if legal grounds for invalidity exist, the agreement will not automatically dissolve unless Ukraine, acting through its free will and without coercion, explicitly challenges its validity. Should

Ukraine uphold the agreement voluntarily, its continued enforcement remains possible, notwithstanding scholarly debates.

However, if Ukraine invokes Article 52 and successfully establishes that the agreement was procured through coercion, the legal and practical consequences would be significant.

Prospective Consequences

1. Nullity *ab initio*: The agreement would be deemed void from its inception, stripping it of all legal effect. Provisions such as revenue-sharing arrangements, U.S. access to mining zones, tax exemptions, and other privileges would cease to bind the parties. Both states would be obligated to restore the status quo ante, requiring the return of any benefits derived from the agreement.

2. Reparation Claims: Ukraine could seek restitution for losses incurred due to the agreement's implementation. This includes reclaiming unlawfully acquired mineral revenues and pursuing compensation for strategic or economic harm resulting from coerced terms. Additionally, if the agreement violated jus cogens norms such as sovereign equality, Ukraine might invoke Article 71 of the VCLT to invalidate all its consequences.

3. Burden of Proof: Ukraine bears the burden of proving that the agreement was concluded under duress. Evidence such as suspending military aid, intelligence-sharing halts, and explicit threats would be critical to demonstrating coercion.

4. Strengthening Jus Cogens Norms: Declaring the agreement invalid would reaffirm that coercion—whether military, economic, or political—infringes upon peremptory norms of international law, such as the principle of sovereign equality. This would reinforce the jus cogens regime codified in Article 53 of the VCLT, which stipulates that any treaty concluded in conflict with a peremptory norm of general international law is void *ab initio*. Such a development could play a deterrent role by dissuading powerful states from exploiting asymmetrical leverage to compel weaker states into unfavourable treaty arrangements.

5. Clarifying the Threshold of Coercion: This case also offers a critical opportunity to address the VCLT's current ambiguity regarding non-military forms of coercion. It may contribute to the establishment of clearer legal standards for when economic or political pressure invalidates a state's consent to be bound by a treaty. Particularly in situations of armed conflict, where a state faces existential threats, the conditioning of vital aid on treaty compliance could constitute impermissible coercion. As such, the case may prompt a broader interpretative evolution in international treaty law, recognising that coercion is not confined solely to overt military threats.

Conclusion

The mineral agreement represents a development of substantial significance not only as an interstate economic instrument but also within the framework of international treaty law. While the United States' threat to suspend military assistance to Ukraine does not constitute a direct "use of force" under Article 2(4) of the UN Charter, it must be acknowledged that the VCLT adopts a broader interpretation of "force" in the context of treaty invalidity. Under this approach, non-military forms of coercion, such as economic or political pressure, may fall within the scope of Article 52 if their effects equate to the severity of military threats. In the specific circumstances of Ukraine's ongoing war with Russia, the suspension of military aid could be construed both as an indirect application of force against Ukraine and as an exploitation of Russia's unlawful use of force. The dual aspects of these dynamics highlight the coercive nature behind the agreement's conclusion.

Consequently, recognising Ukraine's right to invalidate the agreement on the grounds of coerced consent aligns with the principles of free will and sovereign equality enshrined in international law. Such a determination would uphold the integrity of treaty-making processes and establish a critical precedent for future cases involving asymmetrical power dynamics. This case would reinforce the normative framework protecting state sovereignty and genuine consent in international relations by affirming that coercion extends beyond overt military threats to include measures with comparable coercive effects.



(Beata Zawrzel - Anadolu Agency)

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