



Great Powers Can Disagree: Similarities and Differences

Yu Yang^{1,*}

¹ Gould School of Law, University of Southern California, Los Angeles, 90007, The U.S.

*yyang796@usc.edu

Abstract. Since Russia launched a surprise attack on Ukraine on February 24, 2022, whether Russia's military actions violated international law has become a hot issue in the international community. Under the same international law, countries around the world also reacted completely differently to Russia's actions. This study compares the US and Chinese official interpretations of the UN Charter, reasoning, policy actions, and international impact on the judicial issues of the Russo-Ukrainian War. After that, the author further discusses the fundamental reasons why the United States and China have different views on international law on the judicial issue of the Russian-Ukrainian war. This research answers the judicial issues of the Russian-Ukrainian war, fully compares the official views of the United States and China on the field of international law and clarifies the role of international law in the United States and China. It has a certain enlightening effect on the research in the field of international law related to war.

Keywords: The Russian-Ukrainian war, UN Security Council, NATO

1 Introduction

1.1 Background information

On February 24, 2022, the Russian-Ukrainian war broke out, which may be the largest war in Europe since World War II. The war has killed some 4,569 civilians and injured 5,691 as of June 19, according to conservative statistics from the Office of the United Nations High Commissioner for Human Rights. The war also forced at least 7.7 million refugees to flee Ukraine as of June 13.

The Russo-Ukrainian war also caused huge damage to the global economy. First, the losses incurred by countries reducing their dependence on Russia for imports will reach 100 billion euros in the short term. In response to the threat of war, many countries have provided Ukraine with financial support and increased defense budgets; for example, EU countries have provided 500 million euros in aid to Ukraine and are increasing their defense budgets to 1.4% - 2% of GDP. The war also led to significant price inflation, and global economic burdens such as soaring prices of fossil energy, food, and metals. (International Journal of Management Science and Business Administration, 2022) please note that the first paragraph of a section or subsection is not indented. The first paragraphs that follow a table, figure, equation, etc. do not have an indent, either.

1.2 International law in China and the U.S.

Both China and the United States have tried to stop the Russian-Ukrainian war and restore peace to the region under the guidance of international law. While the efforts of both are grounded on the UN Charter, the behaviors and roles played by China and the United States are quite different.

China and the United States have similar interpretations of international law, but because of different interest demands, each adopts different reasoning for international law and ultimately achieves the purpose of safeguarding their interests.

2 Comparing interpretation of the law of the U.S. and China

China and the US generally agree on the requirements of relevant international law.

2.1 The U.S.

According to Article 2(4), Chapter VII, and Article 51 of the UN Charter, the use of force among member states is prohibited unless it is a military operation for the maintenance of peace or self-defense without other possible solutions authorized by the UN Security Council. The Russian side said that Russia launched the military operation in response to the military threat in Ukraine and to prevent genocide in Ukraine. The first two claims are legally invalid as there is no evidence that Ukraine has conducted military operations against Russia or committed genocide within its borders. (The Laws of War and the Russian Invasion of Ukraine, 2022) Russia's military action against Ukraine is an act of aggression against other countries that do not meet the definition of self-defense in international law. One of Putin's justifications for Russia's aggression, protecting Russia from Ukraine and NATO's aggression, is untenable, since Ukraine and NATO have never attacked Russia militarily, nor have they ever started a war. Evidence [1]. There is no direct evidence that Ukraine has carried out or threatened an armed attack against Russia, so Russian military action cannot be defined as self-defense by international law [2].

The Russian side also pointed out that Russia's military operations are collective self-defense, but the Donetsk and Luhansk regions are not recognized as independent countries by the United Nations, so the claim of collective self-defense is not legally valid. (The Laws of War and the Russian Invasion of Ukraine, 2022) Russia's military action against Ukraine is an act of aggression against other countries that do not meet the definition of collective self-defense in international law. Another justification put forward by Putin about Russian aggression, protecting Ukrainian rebels in the Donbas from aggression by Ukraine and NATO, is equally untenable. Donbas is not recognized by the United Nations and is not legally an independent country, and the two places have no right to request military asylum from other countries [3]. Russia's military action violated Article 2 of the UN Charter. This clause requires member states not to use force to undermine the territorial integrity and political independence of other countries.

Whether or not Ukraine has military operations in eastern Ukraine, Russia's right to collective self-defense is invalid because Luhansk and Donetsk are not recognized by any country other than Russia. The two regions are also not members of the United Nations, so they cannot be defined as countries by international law, so it is legally invalid for the two regions to request military asylum from other countries. (International Institutions and Global Governance Program, 2022) The Luhansk and Donetsk regions are not members of the United Nations, so in fact, these two regions are not eligible to be defined as states by international law, so the collective self-defense right in international law cited by Russia is invalid [2].

National sovereignty, independence, and territorial integrity are principles recognized by the UN Charter and recognized by the international community. Unless authorized by the UN Security Council or the exercise of the right of national self-defense, or according to the UN Charter, countries shall not use force to resolve disputes. President Putin's reasons for military action, including protecting the security of the Russians in Ukraine, NATO's eastward expansion, and aid to the Luhansk and Donetsk regions, are all untenable because Russia ignores Ukraine's national sovereignty and is also not approved by the United Nations [3]. Luhansk and Donetsk are Ukrainian territories. Russia recognized Luhansk and Donetsk as independent states, and brazenly sent troops to assist the rebels, trampling on Ukraine's territorial integrity and national sovereignty. Moreover, Russia's claims that Ukraine committed genocide against Russians within its borders are not fully supported by evidence and facts. (International Institutions and Global Governance Program, 2022) Luhansk and Donetsk are Ukrainian territories, and there is no direct evidence that Ukraine carried out genocide, so Russia's move to recognize it as an independent state violates Ukraine's national sovereignty and territorial integrity.

2.2 China

According to the UN Charter, there are only two situations in which force can be used, one is the collective security mechanism authorized by the UN Security Council, and the other is a self-defense counterattack. If these two conditions are not met, the reason for launching the war is invalid, and the crime of aggression has been constituted in theory. According to Article 2, paragraphs 3 and 4 of the UN Charter, States should resolve problems by peaceful means. The Donetsk and Luhansk regions are not recognized as states by the United Nations but are Ukrainian territories, so Russian military action cannot be defined as collective self-defense under international law [3]. Russia recognizes the independence of Luhansk and Donetsk as a pretext for its military operations. In the days leading up to the war, thousands of ceasefire-violating shelling's have occurred in eastern Ukraine, which means war the actual time of opening is earlier than Putin's declaration of the independence of the two places, and the independence of the two places has not been recognized by any other country in the world except Russia [4].

The eastern region of Ukraine is the legal territory of Ukraine. There are no territorial disputes and historical issues because Russia signed an agreement recognizing the status quo in the territories of the republics when the Soviet Union disintegrated and made

international commitments. Therefore, Russia's behavior seriously violated international law and was a vicious incident of trying to use illegal means to acquire the legitimate territory of another country. The Chinese side believes that the territorial integrity of Ukraine's national sovereignty should be respected [4]. The Chinese side has the concept and distinction of right and wrong in the Russian-Ukrainian war. According to international law, the national sovereignty and territorial integrity of each country should be respected and defended. This explicitly applies to Ukraine [5]. The Russian-Ukrainian war requires a multi-dimensional understanding. According to the UN Charter, Russia cannot take the opportunity to embezzle the territory of a sovereign country. The Ukrainian side needs to act rationally and responsibly from the perspective of preserving national sovereignty and territorial integrity and achieving regional peace [6]. According to the purposes of the UN Charter, the national sovereignty and territorial integrity of all countries should be fully respected and protected. This is also the basic norm of international relations. A country's security cannot be built on the premise of compromising the sovereignty and security of other countries [7].

2.3 Summary

The US and China have similar interpretations of international law. On the issue of the Russia-Ukraine conflict, both countries believe that Russia has violated the UN Charter and should end the war as soon as possible to restore peace and resolve the dispute through diplomatic channels.

3 Comparing interpretations of roles of the international law, UN, and countries of The U.S. and China

China and the US generally agree on the roles of international law, the UN, and countries, but they disagree with the reasoning.

3.1 The U.S.

International law and national law are two different legal systems. Within countries, international law is part of national law, and its powers are governed by the national judicial system. (2019 The Writing Center at Georgetown University Law Center, 2019) International law is a part of national law, which stipulates the rights and obligations of a country in the international community, but international law cannot limit a country's domestic laws and internal affairs, and the United Nations is not a global government. Although defending peace and avoiding war has always been the principal purpose of modern international law, due to the sovereignty of the state, it does not necessarily mean that any court can try Russia's violations, because the international court can only intervene with the consent of the relevant countries. Although in theory, the UN Security Council has the responsibility to maintain peace and is binding on all member states, due to its structure, international law has long been unable to play a significant role in matters involving the five permanent members.

International law stipulates those countries must maintain peace, but the United Nations only has non-sanctioned legal procedures for negotiation, mediation, and advice, and does not have the judicial power to impose economic and military sanctions on a country. Therefore, further legal sanctions procedures should be implemented by countries, organizations, or individuals within the framework of international law to achieve the purpose of maintaining peace. (2019 The Writing Center at Georgetown University Law Center, 2019) To defend the principles of international law and maintain peace, countries should condemn Russia's illegal military actions and impose severe sanctions. Sanctions by one country against another country for violating international law are countermeasures permitted by international law and in line with the spirit of international law. Sanctions can be implemented and supported by international law if the means of sanctions are consistent with international law and do not violate international human rights law.

3.2 China

There are both international law and a balance of power in the current system of the international environment. In theory, the International Court of Justice can adjudicate all international disputes, but its powers are limited due to the principle that states voluntarily accept jurisdiction. The implementation of international law, such as investigation and evidence collection, needs to rely on the cooperation and consent of sovereign states, because there is no world government, and there is no power above national sovereignty in-laws. Judicial decisions need to consider circumstance factors. Russia's assertion that NATO's eastward expansion threatens Russia's security fits the definition of a security dilemma in international relations and should be considered [8]. For a sovereign state, both international law and domestic law are binding, but the state's compliance with international law depends on national interests. Although international law is an essential part of international relations, supranational does not exist and there is no enforcement mechanism in international law, and its enforcement process is based on the consent of sovereign states [9].

Limit sanctions can only lead to mutual harm and worsen the situation, which is not in line with international law. By the spirit and provisions of the UN Charter, all countries should find a proper solution to disputes and use communication and advice to achieve peace. In addition, by international law, humanitarian assistance to Ukraine should be provided to overcome the humanitarian crisis [10]. Although system-wide sanctions can put pressure on Russia, the abuse of sanctions will lead to more tension in the region and protracted wars. This is not in line with the purpose of the UN Charter and may lead to the collapse of the international law order established since World War II. Therefore, direct negotiations and multi-party mediation, providing advice is the solution in line with the UN Charter [6]. Unilateral sanctions are not based on relevant specific international law and cannot solve fundamental problems. Instead, they cause economic difficulties and interfere with diplomatic conflict resolution. By international law, the safety of civilians' lives and property should be guaranteed to prevent large-scale humanitarian crises, and the war should be stopped by diplomatic means of advice and communication [9].

3.3 Summary

The US and China have similar interpretations of the roles of international laws, the UN, and countries. Both China and the United States recognize that the United Nations is not a global government, and its powers are limited and cannot effectively take measures to stop wars.

The U.S. and China have different reasoning for the roles of international law, the UN, and countries during the Russia and Ukraine war. The United States believes that because the power of the United Nations is limited, and according to international law, Russia should stop its military operations against Ukraine, so the country should impose sanctions on Russia's actions to supplement the judicial power of the United Nations to ensure the validity of international law.

4 Comparing the performance, policy implications, and actions of The U.S. and China

China and the US have different performances and play different roles during the Russian-Ukrainian war.

4.1 The U.S.

The U.S. performed harmful economic sanctions against Russia to stop the Russian-Ukrainian war. Prohibitions Related to Certain Sovereign Debt of the Russian Federation (February 22, 2022) stipulated that U.S. financial institutions are not allowed to participate in Russia's primary and secondary financial markets nor in the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or The Ministry of Finance of the Russian Federation makes loans unless otherwise provided by law or authorized by the government. Transactions Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, Replacement Parts, and Components, or Software Updates, the Coronavirus Disease 2019 (COVID-19) Pandemic, or Clinical Trials (March 24, 2022) stipulated that all agricultural and medical supplies banned from trade with Russia. Prohibiting Certain Imports, Exports, and New Investment concerning Continued Russian Federation Aggression (March 11, 2022) stipulated that the importation of products of Russian origin as may be determined by the U.S. Treasury Department is prohibited. Exports of luxury goods and dollars to Russia are prohibited. Prohibiting Certain Imports and New Investments Concerning Continued Russian Federation Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine (March 8, 2022) stipulated the prohibition of imports of Russian energy products and investment in the energy industry. DETERMINATION under SECTION 1(a)(ii) OF EXECUTIVE ORDER 14071 stipulated the prohibition of services to real industries in Russia. (U.S. DEPARTMENT OF THE TREASURY)

Since the outbreak of the Russian-Ukrainian war, the United States has provided Ukraine with \$6.1 billion in security assistance to help Ukraine fight against Russian aggression. Until now, The United States has provided Ukraine with the following

military assistance, including field equipment and spare parts; electronic jamming equipment; medical supplies to include first aid kits; Chemical, Biological, Radiological, Nuclear protective equipment; Explosive ordnance disposal protective gear; Commercial satellite imagery services; Night vision devices, thermal imagery systems, optics, and laser rangefinders; Tactical secure communications systems; C-4 explosives and demolition equipment for obstacle clearing; M18A1 Claymore anti-personnel munitions; Four air surveillance radars; Four counter-mortar radars; 22 counter-artillery radars; Unmanned Coastal Defense Vessels; Puma Unmanned Aerial Systems; Laser-guided rocket systems; 121 Phoenix Ghost Tactical Unmanned Aerial Systems; 75,000 sets of body armor and helmets; Over 50,000,000 rounds of small arms ammunition; Over 7,000 small arms; 200 M113 Armored Personnel Carriers; Hundreds of Armored High Mobility Multipurpose Wheeled Vehicles; 20 Mi-17 helicopters; High Mobility Artillery Rocket Systems and ammunition; 15 Tactical Vehicles to recover equipment; 90 Tactical Vehicles to tow 155mm Howitzers; 108 155mm Howitzers and over 220,000 155mm artillery rounds; Over 700 Switchblade Tactical Unmanned Aerial Systems; Over 20,000 other anti-armor systems; Over 6,500 Javelin anti-armor systems; Over 1,400 Stinger anti-aircraft systems. (U.S. Department of Defense, 2022)

4.2 China

The specific actions of Chinese officials mainly include humanitarian assistance and advice on peace negotiations. Since the start of the war, President Xi Jinping has repeatedly spoken on the phone with Russian President Vladimir Putin, French President Macron, and other leaders of various countries. In the content of the phone call, he proposed to insist on a political solution to the conflict between Russia and Ukraine and called on the two sides to resolve the conflict through negotiation. Chinese State Councilor and Foreign Minister - Wang Yi - has also had several phone calls with foreign ministers from many countries. The content of the call mainly included protecting the lives and property of civilians and preventing large-scale humanitarian crises. China encourages a peaceful and diplomatic solution to the Ukrainian crisis. Wang Wenbin, Deputy Director-General of the Information Department of the Chinese Ministry of Foreign Affairs, has also repeatedly mentioned in international press conferences, suggesting that both sides exercise restraint and seek a fundamental solution to the problem through dialogue. After the Russian President was afraid that Putin ordered the Russian military's nuclear forces to maintain a high alert state, Wang Wenbin called for a nuclear war that could not be won or fought. The Chinese side suggested that both sides remain calm and exercise restraint to avoid further escalation of the situation. China supports negotiation and dialogue to solve the problem, and all measures are developed and advanced around the "four shoulds" proposed by President Xi Jinping to ease the conflict between Russia and Ukraine [11].

Chinese Ambassador to Egypt Liao Liqiang mentioned in an exclusive interview with the magazine "Ruz Youssef" that the Red Cross Society of China has provided humanitarian aid to Ukraine three times worth 5 million RMB. The Chinese government has decided to provide another 10 million RMB worth of humanitarian aid to Ukraine [11]. Zhao Lijian pointed out in the press conference that humanitarian aid

materials worth 5 million RMB have been shipped from Beijing on March 9 and will be delivered to Ukraine safely and appropriately [12].

4.3 Summary

The U.S. and China have different performances, policy implications, and actions based on international laws during the Russia and Ukraine war. The U.S. official performance includes economic sanctions on Russia and safety assistance to Ukraine. China's official performance includes humanitarian assistance and advice on peace negotiations for both sides.

5 The reason for differences

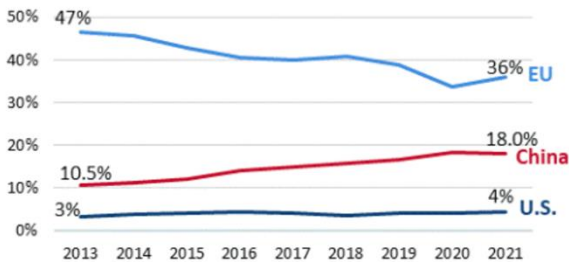
The author believes that the fundamental reason for the above phenomenon in the two countries is that the interests of the two countries are inconsistent, and it is easy to see that their reasonings have a strong relationship with their interests.

5.1 China

The eastward expansion of NATO is not in line with China's security interests, so China focuses on this scenario in the reasoning of international law. The eastward expansion of NATO will strengthen the competition for Central Asia. To get rid of Russia's control, the Central Asian countries may introduce NATO's military presence, which will exert huge military pressure on China's northwest border, which will greatly reduce the security space between China and the Western world [13]. After NATO's eastward expansion, China will face more geopolitical pressure from NATO-led by the United States, as the buffer space between the two sides becomes narrower, which will constitute a major factor of uncertainty for China's geo-security and territorial integrity. The Sino-Russian relationship is near-geopolitical, while the relationship between China and NATO countries is far-geographical. To maintain the near-geographical relationship that is more important to China's national security, China should support Russia in opposing NATO's eastward expansion [14].

As shown in figure 1, China accounts for a large share of trade with Russia. If China joins the United States in sanctioning Russia, China will suffer huge economic losses [15].

(a). Share of Russia’s trade with select partners



(b). Russia as share of China’s imports

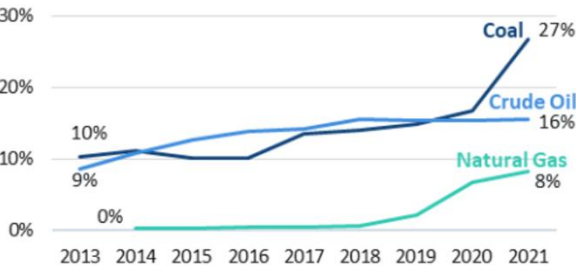


Fig. 1. The large share of trade between Russia and China. (Data source: China’s Economic and Trade Ties with Russia, 2022 [13].)

5.2 The U.S.

The eastward expansion of NATO is in the security interests of the United States, so the United States does not mention this plot in the reasoning of international law. The existence of NATO makes other NATO members rely on the United States for military security, ensuring that these countries are strategic subordinates of the United States, and cannot form another power center that can threaten the United States, allowing the United States to deploy military defense forces on a global scale, NATO The eastward expansion of the United States expands the national security space of the United States, so it is beneficial to the security interests of the United States [14]. Having more countries join NATO can allow NATO to concentrate more resources and share fewer responsibilities among countries, which will reduce the burden on U.S. defense. The enhancement of NATO's military power can also effectively increase the cost of the enemy's military operations against NATO countries. The United States can also get more military, intelligence, and other national security support from NATO allies [15].

As shown in figure 2, the trade volume between the United States and Russia is not very large, so the economic impact of economic sanctions on Russia on the United States is relatively small.

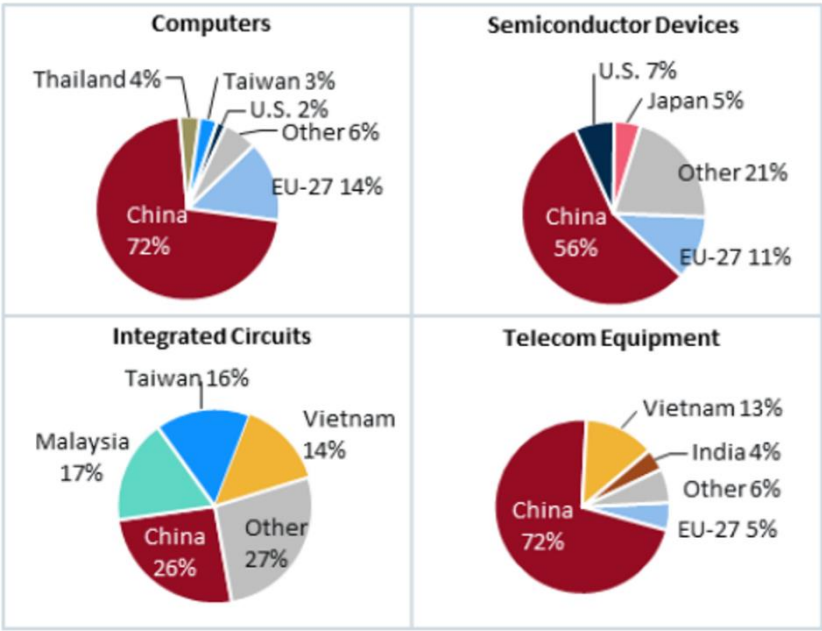


Fig. 2. The trade volume between Russia and other countries, especially China. (Data source: China’s Economic and Trade Ties with Russia, 2022 [13].)

6 Conclusion

China and the United States have similar explanations of international law, but because of different interest demands, each party adopts different reasoning for the use of international law and ultimately achieves the purpose of safeguarding their interests.

Therefore, for countries, international law makes it a tool to protect their rights and interests, and countries will use different reasoning to support their next actions due to their interests and needs, occupying the moral commanding heights.

References

1. Wang, J. (2022). Can International Law Govern the Russian-Ukrainian War? Who will be convicted of war crimes? Phoenix Network | Wind Talk.
2. Zhang, H. (2022). Interview with Zhang Hong: The Russian-Ukrainian war is over, but also a red flag. Sina.
3. Zhao, H. (2022). Commentary: Why is China's position in the Russian-Ukrainian conflict a constructive intervention? Sina.

4. Tian, F. (2022). Tian Feilong: The International Law Entanglement and Way Out of the Ukraine War. *like thought*.
5. Wang, Jiangyu. (2021). International Law and International Relations: A Cross-Analysis Approach in the Chinese Context *China Law Review* 2021 Issue 3 (Total Issue 39). 2021. 23.
6. Wang, W. (2022). Foreign Ministry Spokesperson Wang Wenbin hosted a regular press conference on February 28, 2022. Ministry of Foreign Affairs of the People's Republic of China.
7. Wang, Y. (2022). Wang Yi on the Ukraine issue: Sending weapons cannot bring peace to Ukraine, and sanctions and pressure cannot solve the European security dilemma. Online: People's Republic of China Ministry of Foreign Affairs.
8. Liao, L. (2022). China's position is objective and fair. Ministry of Foreign Affairs of the People's Republic of China.
9. Zhao, Lijian and Han, Xiaoming. (2022). Welcomes the United Nations Secretary-General's good office efforts to de-escalate the situation in Russia and Ukraine. online: People's Daily.
10. Xiaoqing Yu & Yangfan Su. (2022). Ministry of Foreign Affairs: China will provide 5 million yuan of humanitarian aid to Ukraine. *Sina*.
11. Qiu, J. (2002). The impact of NATO's eastward expansion on China. Reprinted newspaper materials of the Renmin University of China, 1-2.
12. Ye, Z. (1997). The eastward expansion of NATO and the geopolitics of the United States, Russia, and China. *World economy and politics*, 49-53.
13. China's Economic and Trade Ties with Russia. (2022). Congressional Research Service.
14. Menon R, Ruger W. NATO enlargement and US grand strategy: a net assessment [published online ahead of print, 2020 May 11]. *International Politics*. 2020;1-30. doi:10.1057/s41311-020-00235-7
15. Lange, K. (2018). *National Defense Strategy: Alliances and Partnerships*. U.S. Department of Defense.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

