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STATE RESPONSIBILITY

Draft articles on State responsibility: titles and texts
of articles adopted by the Drafting Committee

State responsibility

Addendum

Part Two

Article 12

Conditions relating to resort to countermeasures

1. An injured State may not take countermeasures unless:

(a) it has recourse to a [binding/third party] dispute settlement procedure which both the injured State and the State which has committed the internationally wrongful act are bound to use under any relevant treaty to which they are parties; or

(b) in the absence of such a treaty, it offers a [binding/third party] dispute settlement procedure to the State which has committed the internationally wrongful act.

2. The right of the injured State to take countermeasures is suspended when and to the extent that an agreed [binding] dispute settlement procedure is being implemented in good faith by the State which has committed the internationally wrongful act, provided that the internationally wrongful act has ceased.

3. A failure by the State which has committed the internationally wrongful act to honour a request or order emanating from the dispute settlement procedure shall terminate the suspension of the right of the injured State to take countermeasures.
