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**EFFECTS OF ARMED CONFLICTS ON TREATIES**

**Addendum**

**Texts of draft articles 5 and 13 and annex provisionally adopted on  
first reading by the Drafting Committee on 9 and 10 July 2008**

**Article 5**

**The operation of treaties on the basis of implication from their subject matter**

In the case of treaties the subject matter of which involves the implication that they continue in operation, in whole or in part, during armed conflict, the incidence of an armed conflict will not as such affect their operation.<sup>1</sup>

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<sup>1</sup> At its 2973rd meeting, on 6 June 2008, the Commission amended and adopted draft article 5 by adding the phrase “in whole or in part” at the end of the sentence. In its review of the annex containing an indicative list of categories of treaties referred to in article 5, the Drafting Committee considered it appropriate as a matter of drafting to have the phrase inserted within the text between “operation” and “during armed conflict”. Draft article 5 was revised accordingly.

### **Article 13 [10]**

#### **Effect of the exercise of the right to individual or collective self-defence on a treaty**

A State exercising its right of individual or collective self-defence in accordance with the Charter of the United Nations is entitled to suspend in whole or in part the operation of a treaty incompatible with the exercise of that right.

### **Annex**

#### **Indicative list of categories of treaties referred to in draft article 5**

- (a) Treaties relating to the law of armed conflict, including treaties relating to international humanitarian law;
- (b) Treaties declaring, creating or regulating a permanent regime or status or related permanent rights, including treaties establishing or modifying land and maritime boundaries;
- (c) Treaties of friendship, commerce and navigation and analogous agreements concerning private rights;
- (d) Treaties for the protection of human rights;
- (e) Treaties relating to the protection of the environment;
- (f) Treaties relating to international watercourses and related installations and facilities;
- (g) Treaties relating to aquifers and related installations and facilities;
- (h) Multilateral law-making treaties;
- (i) Treaties relating to the settlement of disputes between States by peaceful means, including resort to conciliation, mediation, arbitration and the International Court of Justice;
- (j) Treaties relating to commercial arbitration;
- (k) Treaties relating to diplomatic relations;
- (l) Treaties relating to consular relations.

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