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Agenda Item 84

Effects of armed conflicts on treaties

Statement

on behalf of the Nordic countries

by
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(check against delivery)

Mr. Chairman,

In the year 2011 the General Assembly took note of the International Law Commission's draft articles on the effects of armed conflicts on treaties and annexed them to the resolution 66/99 for considering, at a later stage, the form that might be given to these articles. The topic was included in the agenda of the 69th General Assembly. The Nordic countries welcome the opportunity to discuss the issue.

Mr. Chairman,

Let me first renew our support for the important work of the Commission on this topic and congratulate the Special Rapporteur, Mr. Lucius Caflisch, for the results already achieved. The Nordic countries also wish to refer to the valuable work of the first Special Rapporteur on this topic, Mr. Ian Brownlie. Furthermore, the Nordic countries also wish to honour Ms. Marie Jacobsson for her valuable work on the related topic 'Protection of the environment in relation to armed conflicts'.

Mr. Chairman,

As previously expressed, the Nordic countries welcome several of the formulations of the draft articles. For instance draft article 1 reflects the fact that internal armed conflicts could affect the operation of treaties as much as international armed conflicts. We also hold the view that the scope of the draft articles should be broad enough to cover cases in which only one of the States Parties to a treaty is a party to an armed conflict. In this regard, we are pleased with the formulation of article 1.

We also agree with the wording presented in draft article 2 paragraph (b) as the definition of the term 'armed conflict' as it accurately reflects its meaning under international humanitarian law while taking into account the specific context of the present draft articles. We also welcome the clarifying inclusion of article 5 according to which in the absence of a clear indication in the text of the treaty itself, one should seek to ascertain its meaning through the application of the established rules of international law on treaty interpretation.

However, draft article 7 addresses the question of continued operation of treaties resulting from their subject-matter. The article in question refers to an indicative list of treaties which is to be found in the annex to the draft articles. We would have preferred to incorporate this list into the commentary to draft article 7 or, possibly, to delete it altogether. We wish to repeat the view that there is a presumption of continuity of treaties during armed conflict, subject however to the specific provisions of the treaty on its application, taking into account basic treaty principles. Therefore, it would have been appropriate with an article containing a statement of principle to that effect.

Thank you, Mr. Chairman.