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Statement by the United States of America
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69th General Assembly Sixth Committee
Agenda Item 84 – October 23, 2014
Effects of Armed Conflicts on Treaties

We take this opportunity to reiterate our appreciation of the work of the Commission, and especially of the special rapporteur, Lucius Calfisch, on the draft articles and commentaries on the effects of armed conflict on treaties. As we have noted, the draft articles reflect the continuity of treaty obligations during armed conflict when reasonable, take into account particular military necessities, and provide practical guidance to States by identifying factors relevant to determining whether a treaty should remain in effect in the event of armed conflict.

We continue to have concerns about the definition of "armed conflict" in draft article 2(b). Rather than defining the term, the better approach would have been to make clear that armed conflict refers to the set of conflicts covered by common articles 2 and 3 of the 1949 Geneva Conventions (i.e., international and non-international armed conflicts), which enjoy nearly universal acceptance among States. With regard to draft Article 15, we do not support the focus on aggression as defined by General Assembly resolution 3314. Rather, we think the appropriate focus should have been on all unlawful uses of force.

With regard to the question of the ultimate form the draft articles might take, we continue to believe strongly that the draft articles are best used as a resource to which States may refer when determining the effect of particular armed conflicts on particular treaties. Further, we do not support the elaboration of a convention on this topic. The United States believes that the General Assembly should encourage States to consider drawing on the articles in particular situations and continue to consider the draft articles in the Sixth Committee, as appropriate.