

Session of Helsinki - 1985

The Effects of Armed Conflicts on Treaties

(Fifth Commission, Rapporteur : Mr Bengt Broms)

(The English text is authoritative. The French text is a translation.)

The Institute of International Law,

Recalling its Resolution at the Christiania Session in 1912 on the effects of war on treaties ;

Considering that armed conflicts continue to occur in violation of the prohibition on the use of force contained in the Charter of the United Nations ;

Considering that the practice of States with regard to the effects of armed conflicts on treaties to which they are parties is not uniform and that it is therefore appropriate to affirm certain principles of international law on this problem ;

Recognizing that the present Resolution shall not prejudice the application of the provisions of the Vienna Convention on the Law of Treaties,

Adopts the following Resolution :

Article 1

For the purpose of this Resolution, the term "armed conflict" means a state of war or an international conflict which involve armed operations which by their nature or extent are likely to affect the operation of treaties between States parties to the armed conflict or between States parties to the armed conflict and third States, regardless of a formal declaration of war or other declaration by any or all of the parties to the armed conflict.

Article 2

The outbreak of an armed conflict does not *ipso facto* terminate or suspend the operation of treaties in force between the parties to the armed conflict.

Article 3

The outbreak of an armed conflict renders operative, in accordance with their own provisions, between the parties treaties which expressly provide that they are to be operative during an armed conflict or which by reason of their nature or purpose are to be regarded as operative during an armed conflict.

Article 4

The existence of an armed conflict does not entitle a party unilaterally to terminate or to suspend the operation of treaty provisions relating to the protection of the human person, unless treaty otherwise provides.

Article 5

The outbreak of an armed conflict does not *ipso facto* terminate or suspend the operation of bilateral treaties in force between a party to that conflict and third States.

The outbreak of an armed conflict between some of the parties to a multilateral treaty does not *ipso facto* terminate or suspend the operation of that treaty between other contracting States or between them and the States parties to the armed conflict.

Article 6

A treaty establishing an international organization is not affected by the existence of an armed conflict between any of its parties.

Article 7

A State exercising its rights 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, subject to any consequences resulting from a later determination by the Security Council of that State as an aggressor.

Article 8

A State complying with a resolution by the Security Council of the United Nations concerning action with respect to threats to the peace, breaches of the peace or acts of aggression shall either terminate or suspend the operation of a treaty which would be incompatible with such resolution.

Article 9

A State committing aggression within the meaning of the Charter of the United Nations and Resolution 3314 (XXIX) of the General Assembly of the United Nations shall not terminate or suspend the operation of a treaty if the effect would be to benefit that State.

Article 10

This Resolution does not prejudge rights and duties arising from neutrality.

Article 11

At the end of an armed conflict and unless otherwise agreed, the operation of a treaty which has been suspended should be resumed as soon as possible.

*

(28 August 1985)