



**Permanent Mission of**  
**Malaysia**  
**to the United Nations**

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STATEMENT BY MS. NOOR EMILIA ALIAS, REPRESENTATIVE OF MALAYSIA AT THE SIXTH COMMITTEE OF THE SIXTY-THIRD SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON THE AGENDA ITEM 75: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS SIXTIETH SESSION ON EFFECTS OF ARMED CONFLICTS ON TREATIES, NEW YORK, 27 OCTOBER 2008.

Mr. Chairman,

1. Malaysia congratulates the Commission and Mr. Ian Brownlie, the Special Rapporteur on the adoption of the set of 18 draft articles on the effects of armed conflicts on treaties, together with the Annex as well as the adoption of the set of commentaries to the draft articles.
2. The completion of the first reading of the draft articles represents the successful culmination of more than four years of work by the Commission which was so ably assisted by the Special Rapporteur and his dedicated team. Also praiseworthy and deeply appreciated is the inclusive approach taken by the Special Rapporteur and the Commission for the comments and suggestions made by delegations on this topic at the Sixth Committee as well as at other fora such as the Asian African Legal Consultative Organisation (AALCO) annual sessions.

Mr. Chairman,

3. Malaysia notes that the draft articles that have been adopted on first reading have tried to address the issues highlighted by Commission members and delegations of the Sixth Committee, taking into account existing State practice, relevant judicial decisions and *opinio juris*. Most of these articles appear to be quite settled while others, such as the list of categories included in the Annex for the purpose of draft article 5 would benefit from further study and deliberation. Nonetheless, these draft articles already will provide useful baseline guidance on how States should treat their treaty relations in the event of armed conflict and will contribute to certainty in the absence of express statement of intention in specific treaties.

Mr. Chairman,

4. Malaysia would like to take this opportunity to address some of the conclusions in the draft articles. Firstly, Malaysia welcomes the pragmatic approach taken to focus the scope of the draft articles to inter-State treaty relations and encompassing provisionally applied treaties in **draft article 1**. Malaysia also welcomes the realistic approach taken on the definition of "armed conflict" in **draft article 2**, especially in covering non-international armed conflicts and military occupation in recognition of their potentially disruptive effects on treaties.
5. In relation to **draft article 3**, Malaysia appreciates that its proposals were given due consideration and acknowledges that for practical reasons the term "necessarily" will be used in this set of draft articles.
6. In relation to **draft article 8**, it is noted that it has been redrafted to incorporate the content of Article 65 of the Vienna Convention on the Law of Treaties (VCLT) and the reformulation appears to have addressed the gaps previously identified in the notification process.
7. In relation to **draft article 10**, the reformulation appears to address the previous concerns on the clarity of the separability provision.
8. With reference to **draft articles 13, 14 and 15**, Malaysia note that they have been drafted based on the relevant articles of the resolution of the Institute of International Law as requested by delegations previously.

Mr. Chairman,

9. In conclusion, Malaysia notes that the draft articles will be transmitted to governments for comments and observations with the deadline set at 1 January 2010. Malaysia welcomes this invitation to remain engaged in the development of the draft articles and will be submitting its detailed comments in due course.

Thank you, Mr. Chairman.