

Memo: ILC's Draft Articles on the Responsibility of International Organizations (IOs)
To: Advisory Committee, Meeting of June 21, 2010 (distributed as public document)
From: J.E. Alvarez

DESCRIPTION

--The UN's International Law Commission began work on this project in 2002 and provisionally adopted on first reading of **66 articles at its session in 2009**. (See attached chart with texts of these IO articles and comparing these to the ILC's Articles of State Responsibility (henceforth ASR), drafted by Santiago Villalpando.)

-- The title of the IO articles misleads. They cover not only the responsibilities of IOs but also a subject deliberately left out of the ASR: **namely the responsibilities of states in connection with acts that they commit within IOs.**¹

--The proposed IO articles have an exceedingly **broad ambit**. They purport to apply to all "international" (not just "intergovernmental") organizations, whether established by treaty or "any other instrument governed by international law" and whether or not they include non-state parties (Art. 2(a)). (The intent is to cover entities as distinct in function as the UN specialized agencies, international financial institutions, the WTO, the OSCE, and even OPEC. (See commentaries.)) The articles also anticipate IO and state responsibility for **both the actions and omissions** of IOs. (See Art. 4.)²

-- The IO articles are **modeled on the ASR** in structure and language,³ on the assumption that absent demonstrable practice to the contrary (which the ILC acknowledges is scarce with respect to most issues covered), the ASR should presumably apply since IOs are also "subjects" of international law. The IO articles therefore presume that primary rules of obligation apply to IOs (see Art. 4's bare-bones description of an "international wrongful act" as applied to IOs), and delineate, as do the ASR, secondary rules. The ILC does not indicate which of its draft rules constitute progressive development as opposed to codification.

-- The ILC does not anticipate that its articles will be formally adopted as a treaty but it appears to assume, possibly correctly,⁴ that its efforts will be influential even if only **adopted as a soft law instrument by the General Assembly** (as was the case for the ASR).

¹ See Arts. 57 (liability for states that "aid or assist" an IO in wrongful acts); 58 (for states that "direct" or "control" an IO); 59 (for states that "coerce" an IO); 60 (for states that seek to avoid their own obligations by "taking advantage" of an IO's competence); 61 (residual state responsibility in certain other cases of wrongful acts by IOs); and 62 (a "without prejudice" clause reserving the responsibility of the IO in the preceding instances).

² Thus, in an earlier version of his commentaries, the rapporteur for this topic, Giorgio Gaja, cited as a potential example of IO wrongful action entailing responsibility, the UN's failure to prevent the Rwandan genocide.

³ The most notable exceptions being Arts. 16-17, 39, 51, 60-61. These have, as indicated on the chart, no clear counter-parts in the ASR.

⁴ As occurred with the Draft ASR, the ILC's IO articles have already been cited, even in their provisional form, by some national courts.

FIVE GENERAL PROBLEMS⁵

1. **Lack of evident state practice.** As is clear from the responses given by IOs and states to the ILC's inquiries, with the exception of a few pockets of specialized IO practice (e.g., UN peacekeeping, the responsibility of European Union institutions, claims by IO employees under internal IO administrative law), there are relatively few instances of claims against IOs or against states based on their IO activities. Whereas the ASR was mostly a codification exercise; this appears to be mostly progressive development based substantially on dicta in a small number of judicial decisions, including ICJ advisory opinions, as well as scholarly writings.⁶
2. **Lack of clarity as to status of an IO's internal rules or procedures.** Whereas the ASR relied on the established customary rule that a state's internal law provides no excuse, at least some IOs rules may be both internal law *and* international obligations. The ILC's IO rules are inconsistent on whether adherence to an IO's rules protects an IO (or a state) from liability. Compare, e.g., Arts. 5 (attribution as IO agent depends on IO rules) to 7 (permitting such attribution "even though the conduct exceeds authority or instructions granted) and 8 (permitting such attribution where IO "acknowledges and adopts the conduct"); or any of a number of articles that appear to apply irrespective of whether the IO (or the state) acted in accordance with IO rules and procedures such as 9 (IO acts not in conformity with an international obligation), 11(3) (anticipating IO breaches of a duty "to prevent"), 16 (3) (anticipating IO responsibility in certain cases when it directs another IO to take action), 50 and 54 (permitting an IO to take countermeasures against another IO in certain cases), 57 (anticipating state responsibility where it "aids or assists" an IO), 58 (anticipating state responsibility where it "direct and controls" an IO), 59 (anticipating state liability where it "coerces" an IO); on the other hand, the articles include 51 (permitting an injured state to take countermeasures against an IO but only when this is "not inconsistent" with the rules of the IO) and 63 (indicating that none of the IO articles apply when "governed by special rules of international law, including rules of the organization applicable to the relations between the IO and its members").
3. **The assumption that all IOs are equal and subject to the same general rules of responsibility,** despite IOs' differing functions, differing types of relationship

⁵ For a more detailed critique, see J.E. Alvarez, "International Organizations: Accountability or Responsibility?," (Oct. 27, 2006), Address, Canadian Council of International Law, Proceedings of the Annual Meeting, 2007 (also available at <http://www.asil.org/aboutasil/documents/CCILspeech061102.pdf>)

⁶ The ILC's IO draft commentaries ignore a great deal of arguably relevant practice, including national court decisions involving IO immunity or legal personality or the work of international administrative tribunals. Compare Germany's response to the ILC's inquiries, relying on IO constituent instruments, headquarters agreements, status of forces agreements, other multilateral treaties, the jurisprudence of national and international courts, and other evidence of state practice for its conclusions that "there is no customary international law on the responsibility of IOs" and that there is no presumption that either IOs or states are responsible for IO actions. A/CN.4/556.

with members (from trustee to principal/agent), etc.⁷ Compare, e.g., arts. 20-24 (presuming that all IOs can invoke self-defense, countermeasures, force majeure, distress, and necessity despite their differing mandates and the lack of common understanding on the preconditions for such defenses).⁸

4. **The assumption that IOs are presumptively “responsible” for their acts,** including financially, despite organizational immunities, absence of venues to resolve such claims, lack of other evidence that states intended such liability except where expressly so stated, or the attendant risks to organizational charters and operations.⁹
5. **The assumption that states are presumptively “responsible” for their IO acts,** including financially, despite . . . see 4 above.

WHAT IS TO BE DONE?

1. Pull the plug on the exercise and replace with an ILC study of relevant practice (see, e.g., the ILC’s Fragmentation Project).
2. Encourage greater attention only to those few articles among the 66 that might hold some promise or may be of actual use; e.g., art. 60 (engaging state responsibility where states use IOs to circumvent their own responsibilities).¹⁰
3. Emphasize in Arts. 63-66 and the commentaries that when it comes to this topic (unlike the ASR) the *lex specialis* rules recognized in 63-66 are far more generally applicable than the (alleged) *lex generalis*.
4. Insist that all of the ILC’s black letter rules be supported by specific relevant practice, thereby reversing the ILC’s current assumption that the ASR apply in the absence of such evidence.
5. Convert the topic to a more specialized effort directed at elucidating relevant principles of responsibility for certain IOs or certain IO operations (e.g., UN peace operations).

⁷ Compare the IMF’s trenchant responses to the ILC’s inquiries disagreeing with the ILC’s foundational premise that the ARS are the relevant starting point given the significant differences among IOs, noting that no single body of law on IO responsibility and obligations exists; the European Commission’s response that the EC legal order is “sui generis;” the WHO’s response that it did not see the relevance of many of the ILC’s proposed articles because it is an organization with limited functions; or the WTO’s response that it was a member-driven organization unlike others. See, e.g., A/CN.4/545, 582, and 593. See also the ICJ’s warning (in the *Reparation Case* (1949)), that the UN is neither a state nor a “superstate” but its capacities are determined by seeing whether an asserted power is “functionally necessary” given the UN’s specific duties under the UN Charter.

⁸ Compare the IMF’s inquiry to the ILC asking for clarification as to what an “essential interest” of an IO was for purposes of necessity, and its suggestions that the defenses of “self-defense” and “coercion” were inapplicable or the WTO’s response that it, as opposed to WTO members, was scarcely capable of taking “countermeasures.” See, e.g., A/CN.4/582.

⁹ Given the level of US contributions to many IOs, it would appear to have a keen interest in the potential for IO liability.

¹⁰ Compare dicta in ECHR cases such as *Waite and Kennedy v. Germany* and *Bosphorus Hava Yollary Turizm ve Ticaret Anonim Sirketi v. Ireland*.

Comparative Table of the International Law Commission's articles
 on State responsibility and draft articles on responsibility of international organizations

<p>Text of the ILC's draft articles on responsibility of international organizations, as adopted on first reading (2009)¹</p>	<p>Final text of the ILC's articles on State responsibility (2001)²</p>
<p style="text-align: center;">PART ONE INTRODUCTION</p>	<p style="text-align: center;">No equivalent</p>
<p><u>Article 1. Scope of the present draft articles</u></p> <ol style="list-style-type: none"> 1. The present draft articles apply to the international responsibility of an international organization for an act that is wrongful under international law. 2. The present draft articles also apply to the international responsibility of a State for the internationally wrongful act of an international organization. 	<p style="text-align: center;">No equivalent</p>

¹ For the texts of, and commentaries to, the Articles on responsibility of international organizations adopted by the Commission on first reading, see Report of the Commission on the work of its sixty-first session, *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 10 (A/64/10)*, paras. 50-51, pp. 19-178.

² For the final texts of, and commentaries to, the Articles on State responsibility as adopted by the Commission, see Report of the Commission on the work of its fifty-third session, *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 10 (A/56/10)*, paras. 76-77, pp. 43-365.

<p style="text-align: center;"><u>Article 2. Use of terms</u></p> <p>For the purposes of the present draft articles,</p> <p>(a) "International organization" means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members, in addition to States, other entities;</p> <p>(b) "Rules of the organization" means, in particular, the constituent instruments, decisions, resolutions and other acts of the organization adopted in accordance with those instruments, and established practice of the organization;</p> <p>(c) "Agent" includes officials and other persons or entities through whom the organization acts.</p>	<p style="text-align: center;"><u>No equivalent</u></p>
<p style="text-align: center;">PART TWO</p> <p style="text-align: center;">THE INTERNATIONALLY WRONGFUL ACT OF AN INTERNATIONAL ORGANIZATION</p>	<p style="text-align: center;">PART ONE</p> <p style="text-align: center;">THE INTERNATIONALLY WRONGFUL ACT OF A STATE</p>
<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">General principles</p>	<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">General principles</p>
<p style="text-align: center;"><u>Article 3. Responsibility of an international organization for its internationally wrongful acts</u></p> <p>Every internationally wrongful act of an international organization entails the international responsibility of the international organization.</p>	<p style="text-align: center;"><u>Article 1. Responsibility of a State for its internationally wrongful acts</u></p> <p>Every internationally wrongful act of a State entails the international responsibility of that State.</p>

<p><u>Article 4. Elements of an internationally wrongful act of an international organization</u></p> <p>There is an internationally wrongful act of an international organization when conduct consisting of an action or omission:</p> <ul style="list-style-type: none"> (a) Is attributable to the international organization under international law; and (b) Constitutes a breach of an international obligation of that international organization. 	<p><u>Article 2. Elements of an internationally wrongful act of a State</u></p> <p>There is an internationally wrongful act of a State when conduct consisting of an action or omission:</p> <ul style="list-style-type: none"> (a) Is attributable to the State under international law; and (b) Constitutes a breach of an international obligation of the State.
<p><u>No equivalent: see paras. 4 and 5 of the commentary to article 4 above (ILC Report (2009), pp. 54-55).</u></p>	<p><u>Article 3. Characterization of an act of a State as internationally wrongful</u></p> <p>The characterization of an act of a State as internationally wrongful is governed by international law. Such characterization is not affected by the characterization of the same act as lawful by internal law.</p>

<p style="text-align: center;">CHAPTER II Attribution of conduct to an international organization</p>	<p style="text-align: center;">CHAPTER II Attribution of conduct to a State</p>
<p style="text-align: center;"><u>Article 5. General rule on attribution of conduct to an international organization</u></p> <ol style="list-style-type: none"> 1. The conduct of an organ or agent of an international organization in the performance of functions of that organ or agent shall be considered as an act of that organization under international law whatever position the organ or agent holds in respect of the organization. 2. Rules of the organization shall apply to the determination of the functions of its organs and agents. 	<p style="text-align: center;"><u>Article 4. Conduct of organs of a State</u></p> <ol style="list-style-type: none"> 1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State. 2. An organ includes any person or entity which has that status in accordance with the internal law of the State.
<p style="text-align: center;"><u>Article 5. Conduct of persons or entities exercising elements of governmental authority</u></p> <p>The terminology “conduct of persons or entities exercising elements of governmental authority” was regarded by the ILC as generally not appropriate for international organizations. The ILC considered that it was rfluous to put in the articles an additional provision in order to include persons or entities in a situation corresponding to the one envisaged in article 5 of the articles on the responsibility of States for internationally wrongful acts, since the term “agent” is given in subparagraph (c) of article 2 a wide meaning that adequately covers these persons or entities (see para. 9 of the commentary to article 5 above, ILC Report (2009), p. 61).</p>	<p style="text-align: center;"><u>Article 5. Conduct of persons or entities exercising elements of governmental authority</u></p> <p>The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.</p>

<p><u>Article 6. Conduct of organs or agents placed at the disposal of an international organization by a State or another international organization</u></p> <p>The conduct of an organ of a State or an organ or agent of an international organization that is placed at the disposal of another international organization shall be considered under international law an act of the latter organization if the organization exercises effective control over that conduct.</p>	<p><u>Article 6. Conduct of organs placed at the disposal of a State by another State</u></p> <p>The conduct of an organ placed at the disposal of a State by another State shall be considered an act of the former State under international law if the organ is acting in the exercise of elements of the governmental authority of the State at whose disposal it is placed.</p>
<p><u>Article 7. Excess of authority or contravention of instructions</u></p> <p>The conduct of an organ or an agent of an international organization shall be considered an act of that organization under international law if the organ or agent acts in that capacity, even though the conduct exceeds the authority of that organ or agent or contravenes instructions.</p>	<p><u>Article 7. Excess of authority or contravention of instructions</u></p> <p>The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.</p>
<p><u>Persons or groups of persons acting on the instructions, or under the direction or control, of an international organization would have to be regarded as "agents" according to the definition given in article 2 (c) above (see para. 10 of the commentary to article 5 above, ILC Report (2009), pp. 61-62).</u></p>	<p><u>Article 8. Conduct directed or controlled by a State</u></p> <p>The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.</p>
<p><u>No equivalent: see para. 6 of the introductory commentary to chapter II of Part Two (ILC Report (2009), p. 57).</u></p>	<p><u>Article 9. Conduct carried out in the absence or default of the official authorities</u></p> <p>The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority.</p>

<p>No equivalent: see para. 6 of the introductory commentary to chapter II of Part Two (ILC Report (2009), p. 57).</p>	<p><u>Article 10. Conduct of an insurrectional or other movement</u></p> <ol style="list-style-type: none"> 1. The conduct of an insurrectional movement which becomes the new government of a State shall be considered an act of that State under international law. 2. The conduct of a movement, insurrectional or other, which succeeds in establishing a new State in part of the territory of a pre-existing State or in a territory under its administration shall be considered an act of the new State under international law. 3. This article is without prejudice to the attribution to a State of any conduct, however related to that of the movement concerned, which is to be considered an act of that State by virtue of articles 4 to 9.
<p><u>Article 8. Conduct acknowledged and adopted by an international organization as its own</u></p> <p>Conduct which is not attributable to an international organization under the preceding draft articles shall nevertheless be considered an act of that international organization under international law if and to the extent that the organization acknowledges and adopts the conduct in question as its own.</p>	<p><u>Article 11. Conduct acknowledged and adopted by a State as its own</u></p> <p>Conduct which is not attributable to a State under the preceding articles shall nevertheless be considered an act of that State under international law if and to the extent that the State acknowledges and adopts the conduct in question as its own.</p>
<p>CHAPTER III Breach of an international obligation</p>	<p>CHAPTER III Breach of an international obligation</p>
<p><u>Article 9. Existence of a breach of an international obligation</u></p> <ol style="list-style-type: none"> 1. There is a breach of an international obligation by an international organization when an act of that international organization is not in conformity with what is required of it by that obligation, regardless of its origin and character. 	<p><u>Article 12. Existence of a breach of an international obligation</u></p> <p>There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.</p>

<p>2. Paragraph 1 includes the breach of an international obligation that may arise under the rules of the organization.</p>	
<p><u>Article 10. International obligation in force for an international organization</u></p> <p>An act of an international organization does not constitute a breach of an international obligation unless the international organization is bound by the obligation in question at the time the act occurs.</p>	<p><u>Article 13. International obligation in force for a State</u></p> <p>An act of a State does not constitute a breach of an international obligation unless the State is bound by the obligation in question at the time the act occurs.</p>
<p><u>Article 11. Extension in time of the breach of an international obligation</u></p> <ol style="list-style-type: none"> 1. The breach of an international obligation by an act of an international organization not having a continuing character occurs at the moment when the act is performed, even if its effects continue. 2. The breach of an international obligation by an act of an international organization having a continuing character extends over the entire period during which the act continues and remains not in conformity with the international obligation. 3. The breach of an international obligation requiring an international organization to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation. 	<p><u>Article 14. Extension in time of the breach of an international obligation</u></p> <ol style="list-style-type: none"> 1. The breach of an international obligation by an act of a State not having a continuing character occurs at the moment when the act is performed, even if its effects continue. 2. The breach of an international obligation by an act of a State having a continuing character extends over the entire period during which the act continues and remains not in conformity with the international obligation. 3. The breach of an international obligation requiring a State to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation.
<p><u>Article 12. Breach consisting of a composite act</u></p> <ol style="list-style-type: none"> 1. The breach of an international obligation by an international organization through a series of actions and omissions defined in aggregate as wrongful, occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act. 	<p><u>Article 15. Breach consisting of a composite act</u></p> <ol style="list-style-type: none"> 1. The breach of an international obligation by a State through a series of actions or omissions defined in aggregate as wrongful, occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act.

<p>2. In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.</p>	<p>2. In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.</p>
<p style="text-align: center;">CHAPTER IV Responsibility of an international organization in connection with the act of a State or another international organization</p>	<p style="text-align: center;">CHAPTER IV Responsibility of a State in connection with the act of another State</p>
<p style="text-align: center;"><u>Article 13. Aid or assistance in the commission of an internationally wrongful act</u></p> <p>An international organization which aids or assists a State or another international organization in the commission of an internationally wrongful act by the State or the latter organization is internationally responsible for doing so if:</p> <ul style="list-style-type: none"> (a) That organization does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that organization. 	<p style="text-align: center;"><u>Article 16. Aid or assistance in the commission of an internationally wrongful act</u></p> <p>A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:</p> <ul style="list-style-type: none"> (a) That State does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that State.

<p><u>Article 14. Direction and control exercised over the commission of an internationally wrongful act</u></p> <p>An international organization which directs and controls a State or another international organization in the commission of an internationally wrongful act by the State or the latter organization is internationally responsible for that act if:</p> <ul style="list-style-type: none"> (a) That organization does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that organization. 	<p><u>Article 17. Direction and control exercised over the commission of an internationally wrongful act</u></p> <p>A State which directs and controls another State in the commission of an internationally wrongful act by the latter is internationally responsible for that act if:</p> <ul style="list-style-type: none"> (a) That State does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that State.
<p><u>Article 15. Coercion of a State or another international organization</u></p> <p>An international organization which coerces a State or another international organization to commit an act is internationally responsible for that act if:</p> <ul style="list-style-type: none"> (a) The act would, but for the coercion, be an internationally wrongful act of the coerced State or international organization; and (b) The coercing international organization does so with knowledge of the circumstances of the act. 	<p><u>Article 18. Coercion of another State</u></p> <p>A State which coerces another State to commit an act is internationally responsible for that act if:</p> <ul style="list-style-type: none"> (a) The act would, but for the coercion, be an internationally wrongful act of the coerced State; and (b) The coercing State does so with knowledge of the circumstances of the act.

<p><u>Article 16. Decisions, authorization and recommendations addressed to member States and international organizations</u></p> <ol style="list-style-type: none"> 1. An international organization incurs international responsibility if it adopts a decision binding a member State or international organization to commit an act that would be internationally wrongful if committed by the former organization and would circumvent an international obligation of the former organization. 2. An international organization incurs international responsibility if: <ol style="list-style-type: none"> (a) It authorizes a member State or international organization to commit an act that would be internationally wrongful if committed by the former organization and would circumvent an international obligation of the former organization, or recommends that a member State or international organization commit such an act; and (b) That State or international organization commits the act in question because of that authorization or recommendation. 3. Paragraphs 1 and 2 apply whether or not the act in question is internationally wrongful for the member State or international organization to which the decision, authorization or recommendation is directed. 	<p><u>No equivalent</u></p>
<p><u>Article 17. Responsibility of an international organization member of another international organization</u></p> <p>Without prejudice to articles 13 to 16, the international responsibility of an international organization that is a member of another international organization also arises in relation to an act of the latter under the conditions set out in articles 60 and 61 for States that are members of an international organization.</p>	<p><u>No equivalent</u></p>

<p><u>Article 18. Effect of this chapter</u></p> <p>This chapter is without prejudice to the international responsibility of the State or international organization which commits the act in question, or of any other State or international organization.</p>	<p><u>Article 19. Effect of this chapter</u></p> <p>This chapter is without prejudice to the international responsibility, under other provisions of these articles, of the State which commits the act in question, or of any other State.</p>
<p>CHAPTER V Circumstances precluding wrongfulness</p>	<p>CHAPTER V Circumstances precluding wrongfulness</p>
<p><u>Article 19. Consent</u></p> <p>Valid consent by a State or an international organization to the commission of a given act by another international organization precludes the wrongfulness of that act in relation to that State or the former organization to the extent that the act remains within the limits of that consent.</p>	<p><u>Article 20. Consent</u></p> <p>Valid consent by a State to the commission of a given act by another State precludes the wrongfulness of that act in relation to the former State to the extent that the act remains within the limits of that consent.</p>
<p><u>Article 20. Self-defence</u></p> <p>The wrongfulness of an act of an international organization is precluded if and to the extent that the act constitutes a lawful measure of self-defence under international law.</p>	<p><u>Article 21. Self-defence</u></p> <p>The wrongfulness of an act of a State is precluded if the act constitutes a lawful measure of self-defence taken in conformity with the Charter of the United Nations.</p>
<p><u>Article 21. Countermeasures</u></p> <p>1. Subject to paragraph 2, the wrongfulness of an act of an international organization not in conformity with an international obligation towards a State or another international organization is precluded if and to the extent that the act constitutes a countermeasure taken in accordance with the substantive and procedural conditions required by international law, including those set forth in Chapter II of Part IV for countermeasures taken against another international</p>	<p><u>Article 22. Countermeasures in respect of an internationally wrongful act</u></p> <p>The wrongfulness of an act of a State not in conformity with an international obligation towards another State is precluded if and to the extent that the act constitutes a countermeasure taken against the latter State in accordance with Chapter II of Part Three.</p>

<p>organization.</p> <p>2. An international organization may not take countermeasures against a responsible member State or international organization under the conditions referred to in paragraph 1 unless:</p> <p>(a) The countermeasures are not inconsistent with the rules of the organization; and</p> <p>(b) No appropriate means are available for otherwise inducing compliance with the obligations of the responsible State or international organization concerning cessation of the breach and reparation.</p>	
<p style="text-align: center;"><u>Article 22. Force majeure</u></p> <p>1. The wrongfulness of an act of an international organization not in conformity with an international obligation of that organization is precluded if the act is due to <i>force majeure</i>, that is, the occurrence of an irresistible force or of an unforeseen event, beyond the control of the organization, making it materially impossible in the circumstances to perform the obligation.</p> <p>2. Paragraph 1 does not apply if:</p> <p>(a) The situation of <i>force majeure</i> is due, either alone or in combination with other factors, to the conduct of the organization invoking it; or</p> <p>(b) The organization has assumed the risk of that situation occurring.</p>	<p style="text-align: center;"><u>Article 23. Force majeure</u></p> <p>1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the act is due to <i>force majeure</i>, that is the occurrence of an irresistible force or of an unforeseen event, beyond the control of the State, making it materially impossible in the circumstances to perform the obligation.</p> <p>2. Paragraph 1 does not apply if:</p> <p>(a) The situation of <i>force majeure</i> is due, either alone or in combination with other factors, to the conduct of the State invoking it; or</p> <p>(b) The State has assumed the risk of that situation occurring.</p>
<p style="text-align: center;"><u>Article 23. Distress</u></p> <p>1. The wrongfulness of an act of an international organization not in conformity with an international obligation of that organization is precluded if the author of the act in question has no other reasonable</p>	<p style="text-align: center;"><u>Article 24. Distress</u></p> <p>1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the author of the act in question has no other reasonable way, in a situation of distress,</p>

<p>way, in a situation of distress, of saving the author's life or the lives of other persons entrusted to the author's care.</p> <p>2. Paragraph 1 does not apply if:</p> <p>(a) The situation of distress is due, either alone or in combination with other factors, to the conduct of the organization invoking it; or</p> <p>(b) The act in question is likely to create a comparable or greater peril.</p>	<p>of saving the author's life or the lives of other persons entrusted to the author's care.</p> <p>2. Paragraph 1 does not apply if:</p> <p>(a) The situation of distress is due, either alone or in combination with other factors, to the conduct of the State invoking it; or</p> <p>(b) The act in question is likely to create a comparable or greater peril.</p>
<p style="text-align: center;"><u>Article 24. Necessity</u></p> <p>1. Necessity may not be invoked by an international organization as a ground for precluding the wrongfulness of an act not in conformity with an international obligation of that organization unless the act:</p> <p>(a) Is the only means for the organization to safeguard against a grave and imminent peril an essential interest of the international community as a whole when the organization has, in accordance with international law, the function to protect that interest; and</p> <p>(b) Does not seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.</p> <p>2. In any case, necessity may not be invoked by an international organization as a ground for precluding wrongfulness if:</p> <p>(a) The international obligation in question excludes the possibility of invoking necessity; or</p> <p>(b) The organization has contributed to the situation of necessity.</p>	<p style="text-align: center;"><u>Article 25. Necessity</u></p> <p>1. Necessity may not be invoked by a State as a ground for precluding the wrongfulness of an act not in conformity with an international obligation of that State unless the act:</p> <p>(a) Is the only way for the State to safeguard an essential interest against a grave and imminent peril; and</p> <p>(b) Does not seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.</p> <p>2. In any case, necessity may not be invoked by a State as a ground for precluding wrongfulness if:</p> <p>(a) The international obligation in question excludes the possibility of invoking necessity; or</p> <p>(b) The State has contributed to the situation of necessity.</p>

<p style="text-align: center;"><u>Article 25. Compliance with peremptory norms</u></p> <p>Nothing in this chapter precludes the wrongfulness of any act of an international organization which is not in conformity with an obligation arising under a peremptory norm of general international law.</p>	<p style="text-align: center;"><u>Article 26. Compliance with peremptory norms</u></p> <p>Nothing in this chapter precludes the wrongfulness of any act of a State which is not in conformity with an obligation arising under a peremptory norm of general international law.</p>
<p style="text-align: center;"><u>Article 26. Consequences of invoking a circumstance precluding wrongfulness</u></p> <p>The invocation of a circumstance precluding wrongfulness in accordance with this chapter is without prejudice to:</p> <p>(a) Compliance with the obligation in question, if and to the extent that the circumstance precluding wrongfulness no longer exists;</p> <p>(b) The question of compensation for any material loss caused by the act in question.</p>	<p style="text-align: center;"><u>Article 27. Consequences of invoking a circumstance precluding wrongfulness</u></p> <p>The invocation of a circumstance precluding wrongfulness in accordance with this chapter is without prejudice to:</p> <p>(a) Compliance with the obligation in question, if and to the extent that the circumstance precluding wrongfulness no longer exists;</p> <p>(b) The question of compensation for any material loss caused by the act in question.</p>

<p style="text-align: center;">PART THREE</p> <p style="text-align: center;">CONTENT OF THE INTERNATIONAL RESPONSIBILITY OF AN INTERNATIONAL ORGANIZATION</p>	<p style="text-align: center;">PART TWO</p> <p style="text-align: center;">CONTENT OF THE INTERNATIONAL RESPONSIBILITY OF A STATE</p>
<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">General principles</p>	<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">General principles</p>
<p><u>Article 27. Legal consequences of an internationally wrongful act</u></p> <p>The international responsibility of an international organization which is entailed by an internationally wrongful act in accordance with the provisions of Part Two involves legal consequences as set out in this Part.</p>	<p><u>Article 28. Legal consequences of an internationally wrongful act</u></p> <p>The international responsibility of a State which is entailed by an internationally wrongful act in accordance with the provisions of Part One involves legal consequences as set out in this Part.</p>
<p style="text-align: center;"><u>Article 28. Continued duty of performance</u></p> <p>The legal consequences of an internationally wrongful act under this Part do not affect the continued duty of the responsible international organization to perform the obligation breached.</p>	<p style="text-align: center;"><u>Article 29. Continued duty of performance</u></p> <p>The legal consequences of an internationally wrongful act under this Part do not affect the continued duty of the responsible State to perform the obligation breached.</p>
<p style="text-align: center;"><u>Article 29. Cessation and non-repetition</u></p> <p>The international organization responsible for the internationally wrongful act is under an obligation:</p> <ul style="list-style-type: none"> (a) To cease that act, if it is continuing; (b) To offer appropriate assurances and guarantees of non-repetition, if circumstances so require. 	<p style="text-align: center;"><u>Article 30. Cessation and non-repetition</u></p> <p>The State responsible for the internationally wrongful act is under an obligation:</p> <ul style="list-style-type: none"> (a) To cease that act, if it is continuing; (b) To offer appropriate assurances and guarantees of non-repetition, if circumstances so require.

<p style="text-align: center;"><u>Article 30. Reparation</u></p> <ol style="list-style-type: none"> 1. The responsible international organization is under an obligation to make full reparation for the injury caused by the internationally wrongful act. 2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of an international organization. 	<p style="text-align: center;"><u>Article 31. Reparation</u></p> <ol style="list-style-type: none"> 1. The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act. 2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.
<p style="text-align: center;"><u>Article 31. Irrelevance of the rules of the organization</u></p> <ol style="list-style-type: none"> 1. The responsible international organization may not rely on its rules as justification for failure to comply with its obligations under this Part. 2. Paragraph 1 is without prejudice to the applicability of the rules of an international organization in respect of the responsibility of the organization towards its member States and organizations. 	<p style="text-align: center;"><u>Article 32. Irrelevance of internal law</u></p> <p>The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this Part.</p>
<p style="text-align: center;"><u>Article 32. Scope of international obligations set out in this Part</u></p> <ol style="list-style-type: none"> 1. The obligations of the responsible international organization set out in this Part may be owed to one or more other organizations, to one or more States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach. 2. This Part is without prejudice to any right, arising from the international responsibility of an international organization, which may accrue directly to any person or entity other than a State or an international organization. 	<p style="text-align: center;"><u>Article 33. Scope of international obligations set out in this Part</u></p> <ol style="list-style-type: none"> 1. The obligations of the responsible State set out in this Part may be owed to another State, to several States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach. 2. This Part is without prejudice to any right, arising from the international responsibility of a State, which may accrue directly to any person or entity other than a State.

<p style="text-align: center;">CHAPTER II Reparation for injury</p>	<p style="text-align: center;">CHAPTER II Reparation for injury</p>
<p style="text-align: center;"><u>Article 34. Forms of reparation</u></p> <p>Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter.</p>	<p style="text-align: center;"><u>Article 33. Forms of reparation</u></p> <p>Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter.</p>
<p style="text-align: center;"><u>Article 35. Restitution</u></p> <p>A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:</p> <ol style="list-style-type: none"> (a) Is not materially impossible; (b) Does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation. 	<p style="text-align: center;"><u>Article 34. Restitution</u></p> <p>An international organization responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:</p> <ol style="list-style-type: none"> (a) Is not materially impossible; (b) Does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.
<p style="text-align: center;"><u>Article 36. Compensation</u></p> <ol style="list-style-type: none"> 1. The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. 2. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established. 	<p style="text-align: center;"><u>Article 35. Compensation</u></p> <ol style="list-style-type: none"> 1. The international organization responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. 2. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.

<p style="text-align: center;"><u>Article 36. Satisfaction</u></p> <ol style="list-style-type: none"> 1. The international organization responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation. 2. Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality. 3. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible international organization. 	<p style="text-align: center;"><u>Article 37. Satisfaction</u></p> <ol style="list-style-type: none"> 1. The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation. 2. Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality. 3. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State.
<p style="text-align: center;"><u>Article 37. Interest</u></p> <ol style="list-style-type: none"> 1. Interest on any principal sum due under this chapter shall be payable when necessary in order to ensure full reparation. The interest rate and mode of calculation shall be set so as to achieve that result. 2. Interest runs from the date when the principal sum should have been paid until the date the obligation to pay is fulfilled. 	<p style="text-align: center;"><u>Article 38. Interest</u></p> <ol style="list-style-type: none"> 1. Interest on any principal sum due under this chapter shall be payable when necessary in order to ensure full reparation. The interest rate and mode of calculation shall be set so as to achieve that result. 2. Interest runs from the date when the principal sum should have been paid until the date the obligation to pay is fulfilled.
<p style="text-align: center;"><u>Article 38. Contribution to the injury</u></p> <p>In the determination of reparation, account shall be taken of the contribution to the injury by wilful or negligent action or omission of the injured State or international organization or of any person or entity in relation to whom reparation is sought.</p>	<p style="text-align: center;"><u>Article 39. Contribution to the injury</u></p> <p>In the determination of reparation, account shall be taken of the contribution to the injury by wilful or negligent action or omission of the injured State or any person or entity in relation to whom reparation is sought.</p>

<p><u>Article 39. Ensuring the effective performance of the obligation of reparation</u></p> <p>The members of a responsible international organization are required to take, in accordance with the rules of the organization, all appropriate measures in order to provide the organization with the means for effectively fulfilling its obligations under this chapter.</p>	<p><u>No equivalent</u></p>
<p>CHAPTER III Serious breaches of obligations under peremptory norms of general international law</p>	<p>CHAPTER III Serious breaches of obligations under peremptory norms of general international law</p>
<p><u>Article 40. Application of this chapter</u></p> <ol style="list-style-type: none"> 1. This chapter applies to the international responsibility which is entailed by a serious breach by an international organization of an obligation arising under a peremptory norm of general international law. 2. A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible international organization to fulfil the obligation. 	<p><u>Article 40. Application of this chapter</u></p> <ol style="list-style-type: none"> 1. This chapter applies to the international responsibility which is entailed by a serious breach by a State of an obligation arising under a peremptory norm of general international law. 2. A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible State to fulfil the obligation.
<p><u>Article 41. Particular consequences of a serious breach of an obligation under this chapter</u></p> <ol style="list-style-type: none"> 1. States and international organizations shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40. 2. No State or international organization shall recognize as lawful a situation created by a serious breach within the meaning of article 40, 	<p><u>Article 41. Particular consequences of a serious breach of an obligation under this chapter</u></p> <ol style="list-style-type: none"> 1. States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40. 2. No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation.

<p>nor render aid or assistance in maintaining that situation.</p> <p>3. This article is without prejudice to the other consequences referred to in this Part and to such further consequences that a breach to which this chapter applies may entail under international law.</p>	<p>3. This article is without prejudice to the other consequences referred to in this Part and to such further consequences that a breach to which this chapter applies may entail under international law.</p>
<p style="text-align: center;">PART FOUR</p> <p style="text-align: center;">THE IMPLEMENTATION OF THE INTERNATIONAL RESPONSIBILITY OF AN INTERNATIONAL ORGANIZATION</p>	<p style="text-align: center;">PART THREE</p> <p style="text-align: center;">THE IMPLEMENTATION OF THE INTERNATIONAL RESPONSIBILITY OF A STATE</p>
<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">Invocation of the responsibility of an international organization</p>	<p style="text-align: center;">CHAPTER I</p> <p style="text-align: center;">Invocation of the responsibility of a State</p>
<p><u>Article 42. Invocation of responsibility by an injured State or international organization</u></p> <p>A State or an international organization is entitled as an injured State or an injured international organization to invoke the responsibility of another international organization if the obligation breached is owed to:</p> <p>(a) That State or the former international organization individually;</p> <p>(b) A group of States or international organizations including that State or the former international organization, or the international community as a whole, and the breach of the obligation:</p> <p>(i) Specially affects that State or that international organization; or</p> <p>(ii) Is of such a character as radically to change the position</p>	<p><u>Article 42. Invocation of responsibility by an injured State</u></p> <p>A State is entitled as an injured State to invoke the responsibility of another State if the obligation breached is owed to:</p> <p>(a) That State individually; or</p> <p>(b) A group of States including that State, or the international community as a whole, and the breach of the obligation:</p> <p>(i) Specially affects that State; or</p> <p>(ii) Is of such a character as radically to change the position of all the other States to which the obligation is owed with respect to the further performance of the obligation.</p>

<p>of all the other States and international organizations to which the obligation is owed with respect to the further performance of the obligation.</p>	
<p><u>Article 43. Notice of claim by an injured State or international organization</u></p> <ol style="list-style-type: none"> 1. An injured State or international organization which invokes the responsibility of another international organization shall give notice of its claim to that organization. 2. The injured State or international organization may specify in particular: <ol style="list-style-type: none"> (a) The conduct that the responsible international organization should take in order to cease the wrongful act, if it is continuing; (b) What form reparation should take in accordance with the provisions of Part Three. 	<p><u>Article 43. Notice of claim by an injured State</u></p> <ol style="list-style-type: none"> 1. An injured State which invokes the responsibility of another State shall give notice of its claim to that State. 2. The injured State may specify in particular: <ol style="list-style-type: none"> (a) The conduct that the responsible State should take in order to cease the wrongful act, if it is continuing; (b) What form reparation should take in accordance with the provisions of Part Two.
<p><u>Article 44. Admissibility of claims</u></p> <ol style="list-style-type: none"> 1. An injured State may not invoke the responsibility of an international organization if the claim is not brought in accordance with any applicable rule relating to nationality of claims. 2. When a rule requiring the exhaustion of local remedies applies to a claim, an injured State or international organization may not invoke the responsibility of another international organization if any available and effective remedy provided by that organization has not been exhausted. 	<p><u>Article 44. Admissibility of claims</u></p> <p>The responsibility of a State may not be invoked if:</p> <ol style="list-style-type: none"> (a) The claim is not brought in accordance with any applicable rule relating to the nationality of claims; (b) The claim is one to which the rule of exhaustion of local remedies applies and any available and effective local remedy has not been exhausted.

<p><u>Article 45. Loss of the right to invoke responsibility</u></p> <p>The responsibility of a State may not be invoked if:</p> <ul style="list-style-type: none"> (a) The injured State has validly waived the claim; (b) The injured State is to be considered as having, by reason of its conduct, validly acquiesced in the lapse of the claim. 	<p><u>Article 45. Loss of the right to invoke responsibility</u></p> <p>The responsibility of an international organization may not be invoked if:</p> <ul style="list-style-type: none"> (a) The injured State or international organization has validly waived the claim; (b) The injured State or international organization is to be considered as having, by reason of its conduct, validly acquiesced in the lapse of the claim.
<p><u>Article 46. Plurality of injured States</u></p> <p>Where several States are injured by the same internationally wrongful act, each injured State may separately invoke the responsibility of the State which has committed the internationally wrongful act.</p>	<p><u>Article 46. Plurality of injured States or international organizations</u></p> <p>Where several States or international organizations are injured by the same internationally wrongful act of an international organization, each injured State or international organization may separately invoke the responsibility of the international organization for the internationally wrongful act.</p>
<p><u>Article 47. Plurality of responsible States</u></p> <ul style="list-style-type: none"> 1. Where several States are responsible for the same internationally wrongful act, the responsibility of each State may be invoked in relation to that act. 2. Paragraph 1: <ul style="list-style-type: none"> (a) Does not permit any injured State to recover, by way of compensation, more than the damage it has suffered; (b) Is without prejudice to any right of recourse against the other 	<p><u>Article 47. Plurality of responsible States or international organizations</u></p> <ul style="list-style-type: none"> 1. Where an international organization and one or more States or other organizations are responsible for the same internationally wrongful act, the responsibility of each State or international organization may be invoked in relation to that act. 2. Subsidiary responsibility, as in the case of article 61, may be invoked insofar as the invocation of the primary responsibility has not led to reparation.

<p>3. Paragraphs 1 and 2:</p> <p>(a) Do not permit any injured State or international organization to recover, by way of compensation, more than the damage it has suffered;</p> <p>(b) Are without prejudice to any right of recourse that the State or international organization providing reparation may have against the other responsible States or international organizations.</p>	<p>responsible States.</p>
<p><u>Article 48. Invocation of responsibility by a State or an international organization other than an injured State or international organization</u></p> <p>1. A State or an international organization other than an injured State or international organization is entitled to invoke the responsibility of another international organization in accordance with paragraph 4 if the obligation breached is owed to a group of States or international organizations, including the State or organization that invokes responsibility, and is established for the protection of a collective interest of the group.</p> <p>2. A State other than an injured State is entitled to invoke the responsibility of an international organization in accordance with paragraph 4 if the obligation breached is owed to the international community as a whole.</p> <p>3. An international organization that is not an injured international organization is entitled to invoke the responsibility of another international organization in accordance with paragraph 4 if the obligation breached is owed to the international community as a whole and safeguarding the interest of the international community underlying the obligation breached is included among the functions of the international organization invoking responsibility.</p>	<p><u>Article 48. Invocation of responsibility by a State other than an injured State</u></p> <p>1. Any State other than an injured State is entitled to invoke the responsibility of another State in accordance with paragraph 2 if:</p> <p>(a) The obligation breached is owed to a group of States including that State, and is established for the protection of a collective interest of the group; or</p> <p>(b) The obligation breached is owed to the international community as a whole.</p> <p>2. Any State entitled to invoke responsibility under paragraph 1 may claim from the responsible State:</p> <p>(a) Cessation of the internationally wrongful act, and assurances and guarantees of non-repetition in accordance with article 30; and</p> <p>(b) Performance of the obligation of reparation in accordance with the preceding articles, in the interest of the injured State or of the beneficiaries of the obligation breached.</p>

<p>4. A State or an international organization entitled to invoke responsibility under paragraphs 1 to 3 may claim from the responsible international organization:</p> <p>(a) Cessation of the internationally wrongful act, and assurances and guarantees of non-repetition in accordance with article 29; and</p> <p>(b) Performance of the obligation of reparation in accordance with Part Three, in the interest of the injured State or international organization or of the beneficiaries of the obligation breached.</p> <p>5. The requirements for the invocation of responsibility by an injured State or international organization under articles 43, 44, paragraph 2 and 45 apply to an invocation of responsibility by a State or international organization entitled to do so under paragraphs 1 to 4.</p>	<p>3. The requirements for the invocation of responsibility by an injured State under articles 43, 44 and 45 apply to an invocation of responsibility by a State entitled to do so under paragraph 1.</p>
<p><u>Article 49. Scope of this Part</u></p> <p>This Part is without prejudice to the entitlement that a person or entity other than a State or an international organization may have to invoke the international responsibility of an international organization.</p>	<p><u>No equivalent</u></p>

<p style="text-align: center;">CHAPTER II Countermeasures</p>	<p style="text-align: center;">CHAPTER II Countermeasures</p> <p style="text-align: center;"><u>Article 49. Object and limits of countermeasures</u></p> <ol style="list-style-type: none"> 1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under Part Two. 2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State. 3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question.
<p style="text-align: center;">CHAPTER II Countermeasures</p>	<p style="text-align: center;"><u>Article 50. Object and limits of countermeasures</u></p> <ol style="list-style-type: none"> 1. An injured State or an injured international organization may only take countermeasures against an international organization which is responsible for an internationally wrongful act in order to induce that organization to comply with its obligations under Part Three. 2. Countermeasures are limited to the non-performance for the time being of international obligations of the State or international organization taking the measures towards the responsible international organization. 3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question. 4. Countermeasures shall, as far as possible, be taken in such a way as to limit their effects on the exercise by the responsible international organization of its functions.

<p style="text-align: center;"><u>Article 51. Countermeasures by members of an international organization</u></p> <p>An injured State or international organization which is a member of a responsible international organization may not take countermeasures against that organization under the conditions set out in the present chapter unless:</p> <p>(a) The countermeasures are not inconsistent with the rules of the organization; and</p> <p>(b) No appropriate means are available for otherwise inducing compliance with the obligations of the responsible organization under Part Three.</p>	<p style="text-align: center;"><u>No equivalent.</u></p>
<p style="text-align: center;"><u>Article 52. Obligations not affected by countermeasures</u></p> <p>1. Countermeasures shall not affect:</p> <p>(a) The obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations;</p> <p>(b) Obligations for the protection of fundamental human rights;</p> <p>(c) Obligations of a humanitarian character prohibiting reprisals;</p> <p>(d) Other obligations under peremptory norms of general international law.</p> <p>2. An injured State or international organization taking countermeasures is not relieved from fulfilling its obligations:</p> <p>(a) Under any dispute settlement procedure applicable between the injured State or international organization and the</p>	<p style="text-align: center;"><u>Article 50. Obligations not affected by countermeasures</u></p> <p>1. Countermeasures shall not affect:</p> <p>(a) The obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations;</p> <p>(b) Obligations for the protection of fundamental human rights;</p> <p>(c) Obligations of a humanitarian character prohibiting reprisals;</p> <p>(d) Other obligations under peremptory norms of general international law.</p> <p>2. A State taking countermeasures is not relieved from fulfilling its obligations:</p> <p>(a) Under any dispute settlement procedure applicable between it and the responsible State;</p>

<p>responsible international organization;</p> <p>(b) To respect any inviolability of agents of the responsible international organization and of the premises, archives and documents of that organization.</p>	<p>(b) To respect the inviolability of diplomatic or consular agents, premises, archives and documents.</p>
<p><u>Article 53. Proportionality</u></p> <p>Countermeasures must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question.</p>	<p><u>Article 51. Proportionality</u></p> <p>Countermeasures must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question.</p>
<p><u>Article 54. Conditions relating to countermeasures</u></p> <p>1. Before taking countermeasures, an injured State or international organization shall:</p> <p>(a) Call upon the responsible international organization, in accordance with article 43, to fulfil its obligations under Part Three;</p> <p>(b) Notify the responsible international organization of any decision to take countermeasures and offer to negotiate with that organization.</p> <p>2. Notwithstanding paragraph 1 (b), the injured State or international organization may take such urgent countermeasures as are necessary to preserve its rights.</p> <p>3. Countermeasures may not be taken, and if already taken must be suspended without undue delay if:</p> <p>(a) The internationally wrongful act has ceased; and</p> <p>(b) The dispute is pending before a court or tribunal which has</p>	<p><u>Article 52. Conditions relating to countermeasures</u></p> <p>1. Before taking countermeasures, an injured State shall:</p> <p>(a) Call on the responsible State, in accordance with article 43, to fulfil its obligations under Part Two;</p> <p>(b) Notify the responsible State of any decision to take countermeasures and offer to negotiate with that State.</p> <p>2. Notwithstanding paragraph 1 (b), the injured State may take such urgent countermeasures as are necessary to preserve its rights.</p> <p>3. Countermeasures may not be taken, and if already taken must be suspended without undue delay if:</p> <p>(a) The internationally wrongful act has ceased; and</p> <p>(b) The dispute is pending before a court or tribunal which has the authority to make decisions binding on the parties.</p> <p>4. Paragraph 3 does not apply if the responsible State fails to implement the dispute settlement procedures in good faith.</p>

<p>the authority to make decisions binding on the parties.</p> <p>4. Paragraph 3 does not apply if the responsible international organization fails to implement the dispute settlement procedures in good faith.</p>	
<p><u>Article 55. Termination of countermeasures</u></p> <p>Countermeasures shall be terminated as soon as the responsible international organization has complied with its obligations under Part Three in relation to the internationally wrongful act.</p>	<p><u>Article 53. Termination of countermeasures</u></p> <p>Countermeasures shall be terminated as soon as the responsible State has complied with its obligations under Part Two in relation to the internationally wrongful act.</p>
<p><u>Article 56. Measures taken by an entity other than an injured State or international organization</u></p> <p>This chapter is without prejudice to the right of any State or international organization, entitled under article 48, paragraphs 1 to 3, to invoke the responsibility of an international organization, to take lawful measures against the latter international organization to ensure cessation of the breach and reparation in the interest of the injured party or of the beneficiaries of the obligation breached.</p>	<p><u>Article 54. Measures taken by States other than an injured State</u></p> <p>This chapter does not prejudice the right of any State, entitled under article 48, paragraph 1 to invoke the responsibility of another State, to take lawful measures against that State to ensure cessation of the breach and reparation in the interest of the injured State or of the beneficiaries of the obligation breached.</p>
<p>PART FIVE</p> <p>RESPONSIBILITY OF A STATE IN CONNECTION WITH THE ACT OF AN INTERNATIONAL ORGANIZATION</p>	<p><u>No equivalent, but based on chapter IV above.</u></p>
<p><u>Article 57. Aid or assistance by a State in the commission of an internationally wrongful act by an international organization</u></p> <p>A State which aids or assists an international organization in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:</p>	<p><u>Based on article 16 above.</u></p>

<p>(a) That State does so with knowledge of the circumstances of the internationally wrongful act; and</p> <p>(b) The act would be internationally wrongful if committed by that State.</p>	
<p><u>Article 58. Direction and control exercised by a State over the commission of an internationally wrongful act by an international organization</u></p> <p>A State which directs and controls an international organization in the commission of an internationally wrongful act by the latter is internationally responsible for that act if:</p> <p>(a) That State does so with knowledge of the circumstances of the internationally wrongful act; and</p> <p>(b) The act would be internationally wrongful if committed by that State.</p>	<p>Based on <u>article 17 above.</u></p>
<p><u>Article 59. Coercion of an international organization by a State</u></p> <p>A State which coerces an international organization to commit an act is internationally responsible for that act if:</p> <p>(a) The act would, but for the coercion, be an internationally wrongful act of that international organization; and</p> <p>(b) That State does so with knowledge of the circumstances of the act.</p>	<p>Based on <u>article 18 above.</u></p>

<p><u>Article 60. Responsibility of a member State seeking to avoid compliance</u></p> <ol style="list-style-type: none"> 1. A State member of an international organization incurs international responsibility if it seeks to avoid complying with one of its own international obligations by taking advantage of the fact that the organization has competence in relation to the subject matter of that obligation, thereby prompting the organization to commit an act that, if committed by the State, would have constituted a breach of the obligation. 2. Paragraph 1 applies whether or not the act in question is internationally wrongful for the international organization. 	<p><u>No equivalent</u></p>
<p><u>Article 61. Responsibility of a State member of an international organization for the internationally wrongful act of that organization</u></p> <ol style="list-style-type: none"> 1. Without prejudice to draft articles 57 to 60, a State member of an international organization is responsible for an internationally wrongful act of that organization if: <ol style="list-style-type: none"> (a) It has accepted responsibility for that act; or (b) It has led the injured party to rely on its responsibility. 2. The international responsibility of a State which is entailed in accordance with paragraph 1 is presumed to be subsidiary. 	<p><u>No equivalent</u></p>

<p><u>Article 62. Effect of this Part</u></p> <p>This Part is without prejudice to international responsibility, under other provisions of these draft articles, of the international organization which commits the act in question, or of any other international organization.</p>	<p><u>Based on article 19 above.</u></p>
<p>PART SIX GENERAL PROVISIONS</p>	<p>PART FOUR GENERAL PROVISIONS</p>
<p><u>Article 63. Lex specialis</u></p> <p>These articles do not apply where and to the extent that the conditions for the existence of an internationally wrongful act or the content or implementation of the international responsibility of an international organization, or a State for an internationally wrongful act of an international organization, are governed by special rules of international law, including rules of the organization applicable to the relations between the international organization and its members.</p>	<p><u>Article 55. Lex specialis</u></p> <p>These articles do not apply where and to the extent that the conditions for the existence of an internationally wrongful act or the content or implementation of the international responsibility of a State are governed by special rules of international law.</p>
<p><u>Article 64. Questions of international responsibility not regulated by these articles</u></p> <p>The applicable rules of international law continue to govern questions concerning the responsibility of an international organization or a State for an internationally wrongful act to the extent that they are not regulated by these articles.</p>	<p><u>Article 56. Questions of State responsibility not regulated by these articles</u></p> <p>The applicable rules of international law continue to govern questions concerning the responsibility of a State for an internationally wrongful act to the extent that they are not regulated by these articles.</p>

<p>The draft articles on responsibility of international organizations cover matters left out in the articles on State responsibility under this savings clause (see para. 6 of the commentary to draft article 1 in ILC report (2009), p. 41).</p>	<p><u>Article 57. Responsibility of an international organization</u></p> <p>These articles are without prejudice to any question of the responsibility under international law of an international organization, or of any State for the conduct of an international organization.</p>
<p><u>Article 65. Individual responsibility</u></p> <p>These articles are without prejudice to any question of the individual responsibility under international law of any person acting on behalf of an international organization or a State.</p>	<p><u>Article 58. Individual responsibility</u></p> <p>These articles are without prejudice to any question of the individual responsibility under international law of any person acting on behalf of a State.</p>
<p><u>Article 66. Charter of the United Nations</u></p> <p>These articles are without prejudice to the Charter of the United Nations.</p>	<p><u>Article 59. Charter of the United Nations</u></p> <p>These articles are without prejudice to the Charter of the United Nations.</p>