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RESPONSIBILITY OF INTERNATIONAL ORGANIZATIONS

**Titles and texts of the draft articles adopted by
the Drafting Committee on 31 May 2006**

CHAPTER V

CIRCUMSTANCES PRECLUDING WRONGFULNESS

Article 17

Consent

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.

Article 18

Self-defence

The wrongfulness of an act of an international organization is precluded if the act constitutes a lawful measure of self-defence taken in conformity with the principles of international law embodied in the Charter of the United Nations.

Article 19

Countermeasures

...*

Article 20

Force majeure

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 *force majeure*, 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.
2. Paragraph 1 does not apply if:
 - (a) the situation of *force majeure* is due, either alone or in combination with other factors, to the conduct of the organization invoking it; or
 - (b) the organization has assumed the risk of that situation occurring.

Article 21

Distress

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 way, in a situation of distress, of saving the author's life or the lives of other persons entrusted to the author's care.

* Article 19 concerns counter-measures by an international organization in respect of an internationally wrongful act of another international organization or a State as circumstances precluding wrongfulness. The text of this article will be drafted at a later stage, when the issues relating to counter-measures by an international organization will be examined in the context of the implementation of the responsibility of an international organization.

2. Paragraph 1 does not apply if:

- (a) the situation of distress is due, either alone or in combination with other factors, to the conduct of the organization invoking it; or
- (b) the act in question is likely to create a comparable or greater peril.

Article 22

Necessity

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:

- (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
- (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.

2. In any case, necessity may not be invoked by an international organization as a ground for precluding wrongfulness if:

- (a) the international obligation in question excludes the possibility of invoking necessity; or
- (b) the organization has contributed to the situation of necessity.

Article 23

Compliance with peremptory norms

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.

Article 24

Consequences of invoking a circumstance precluding wrongfulness

The invocation of a circumstance precluding wrongfulness in accordance with this chapter is without prejudice to:

- (a) compliance with the obligation in question, if and to the extent that the circumstance precluding wrongfulness no longer exists;
- (b) the question of compensation for any material loss caused by the act in question.
