

ภาคผนวก

## ภาคผนวก ก

Article 60 of Vienna Convention on the Law of Treaties

ผนวก ก.1. Article 60 of Vienna Convention on the Law of Treaties (English)

### Article 60

#### Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.
2. A material breach of a multilateral treaty by one of the parties entitles:
  - (a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
    - (i) in the relations between themselves and the defaulting State; or
    - (ii) as between all the parties;
  - (b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
  - (c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.
3. A material breach of a treaty, for the purposes of this article, consists in:
  - (a) a repudiation of the treaty not sanctioned by the present Convention; or
  - (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.
4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

**Article 60**

**EXTINCTION D'UN TRAITÉ OU SUSPENSION DE SON APPLICATION  
COMME CONSÉQUENCE DE SA VIOLATION**

1. Une violation substantielle d'un traité bilatéral par l'une des parties autorise l'autre partie à invoquer la violation comme motif pour mettre fin au traité ou suspendre son application en totalité ou en partie.
2. Une violation substantielle d'un traité multilatérale par l'une des parties autorise :
  - a) Les autres parties, agissant par accord unanime, à suspendre l'application du traité en totalité ou en partie ou à mettre fin à celui-ci :
    - i) Soit dans les relations entre elles-mêmes et l'Etat auteur de la violation;
    - ii) Soit entre toutes les parties;
  - b) Une partie spécialement atteinte par la violation à invoquer celle-ci comme motif de suspension de l'application du traité en totalité ou en partie dans les relations entre elle-même et l'Etat auteur de la violation;
  - c) Toute partie autre que l'Etat auteur de la violation à invoquer la violation comme motif pour suspendre l'application du traité en totalité ou en partie en ce qui la concerne si ce traité est d'une nature telle qu'une violation substantielle de ses dispositions par une partie modifie radicalement la situation de chacune des parties quant à l'exécution ultérieure de ses obligations en vertu du traité.
3. Aux fins du présent article, une violation substantielle d'un traité est constituée par :
  - a) Un rejet du traité non autorisé par la présente Convention; ou
  - b) La violation d'une disposition essentielle pour la réalisation de l'objet ou du but du traité.
4. Les paragraphes qui précèdent ne portent atteinte à aucune disposition du traité applicable en cas de violation.
5. Les paragraphes 1 à 3 ne s'appliquent pas aux dispositions relatives à la protection de la personne humaine contenues dans des traités de caractère humanitaire, notamment aux dispositions excluant toute forme de représailles à l'égard des personnes protégées par lesdits traités.

n.3. Article 60 of Vienna Convention on the Law of Treaties (German)

**Artikel 60**

**Beendigung oder Suspendierung eines Vertrags Infolge Vertragsverletzung**

1. Eine erhebliche Verletzung eines zweiseitigen Vertrags durch eine Vertragspartei berechtigt die andere Vertragspartei, die Vertragsverletzung als Grund für die Beendigung des Vertrags oder für seine gänzliche oder teilweise Suspendierung geltend zu machen.
2. Eine erhebliche Verletzung eines mehrseitigen Vertrags durch eine Vertragspartei
  - a) berechtigt die andere Vertragspartei, einvernehmlich den Vertrag ganz oder teilweise suspendieren oder ihn zu beenden
    - i) entweder im Verhältnis zwischen ihnen und dem vertragsbrüchigen Staat
    - ii) oder zwischen allen Vertragsparteien;
  - b) berechtigt eine durch die Vertragsverletzung besonders betroffene Vertragspartei, die Verletzung als Grund für die gänzliche oder teilweise Suspendierung des Vertrags im Verhältnis zwischen ihr und dem vertragsbrüchigen Staat geltend zu machen;
  - c) berechtigt jede Vertragspartei ausser dem vertragsbrüchigen Staat, die Vertragsverletzung als Grund für die gänzliche oder teilweise Suspendierung des Vertrags in bezug auf sich selbst geltend zu machen, wenn der Vertrag so beschaffen ist, dass eine erhebliche Verletzung seiner Bestimmungen durch eine Vertragspartei die Lage jeder Vertragspartei hinsichtlich der weiteren Erfüllung ihrer Vertragsverpflichtungen grundlegend ändert.
3. Eine erhebliche Verletzung im Sinne dieses Artikels liegt
  - a) in einer nach diesem Übereinkommen nicht zulässigen Ablehnung des Vertrags oder
  - b) in der Verletzung einer für die Erreichung des Vertragsziels oder des Vertragszwecks wesentlichen Bestimmung.
4. Die Absätze 1 bis 3 lassen die Vertragsbestimmungen unberührt, die bei einer Verletzung des Vertrags anwendbar sind.

5. Die Absätze 1 bis 3 finden keine Anwendung auf Bestimmungen über den Schutz der menschlichen Person in Verträgen humanitärer Art, insbesondere auf Bestimmungen zum Verbot von Repressalien jeder Art gegen die durch derartige Verträge geschützten Personen.

## ภาคผนวก ข

Article 57 of 1966 International Law Commission Draft

### Article 57.

**Termination or suspension of the operation of a treaty as a consequence of its breach**

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) The other parties by unanimous agreement to suspend the operation of the treaty or to terminate it either:

(i) in the relations between themselves and the defaulting State, or

(ii) as between all the parties;

(b) A party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

(c) Any other party to suspend the operation of the treaty with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of the present article, consists in:

(a) A repudiation of the treaty not sanctioned by the present articles; or

(b) The violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

## ภาคผนวก ค

### 1966 Sir Humphrey Waldock Report V

1. A material breach of a bilateral treaty by one party entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) Any other party whose interests are affected by the breach to invoke the breach as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

(b) The other parties by unanimous agreement to suspend or terminate the operation of the treaty either

(i) only in the relations between themselves and the defaulting State or

(ii) as between all the parties.

2(bis). Notwithstanding paragraph 2, if the provision to which the breach relates is of such a character that its violation by one party frustrates the object and purpose of the treaty generally as between all the parties, any party may suspend the operation of the treaty with respect to itself or withdraw from the treaty.

3. For the purposes of the present article, a material breach of a treaty by one of the parties consists in:

(a) The unfounded repudiation of the treaty; or

(b) The violation of a provision which is essential to the effective execution of any of the objects or purposes of the treaty.

4. The foregoing paragraphs are subject to any provisions in the treaty or in any related instrument which may regulate the rights of the parties in the event of a breach.

## ภาคผนวก ง

Article 42 of 1963 International Law Commission Draft.

### Article 42

Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one party entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.
2. A material breach of a multilateral treaty by one of the parties entitles:
  - (a) Any other party to invoke the breach as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
  - (b) The other parties by common agreement either:
    - (i) To apply to the defaulting State the suspension provided for in subparagraph (a) above; or
    - (ii) To terminate the treaty or to suspend its operation in whole or in part.
3. For the purposes of the present article, a material breach of a treaty by one of the parties consists in:
  - (a) The unfounded repudiation of the treaty; or
  - (b) The violation of a provision which is essential to the effective execution of any of the objects or purposes of the treaty.
4. The right to invoke a material breach as a ground for terminating or suspending of part only of a treaty, which is provided for in paragraph 1 and 2 above, is subject to the conditions specified in article 46.
5. The foregoing paragraphs are subject to any provisions in the treaty or in any related instrument which may regulate the rights of the parties in the event of a breach.

## ជំពូក ១

### Article 20 of 1963 Sir Humphrey Waldock Report II

#### *Article 20*

##### *Termination or suspension of a treaty following upon its breach*

1. (a) The breach of a treaty by one party does not of itself have the effect of terminating the treaty or of suspending its operation.  
(b) Under the conditions set out in the following paragraphs of this article, however, a material breach of a treaty by one party entitles the other party or parties to denounce or withdraw from the treaty or to suspend, in whole or in part, its operation.
2. A material breach of a treaty results from —
  - (a) a repudiation of the treaty by a representative or organ of the State competent to express the will of the State to denounce the treaty;
  - (b) a breach so substantial as to be tantamount to setting aside any provision —
    - (i) with regard to which the making of reservations is expressly prohibited or impliedly excluded under article 18, paragraph 1 (a), (b) and (c) of part I; or
    - (ii) the failure to perform which is not compatible with the effective fulfilment of the object and purpose of the treaty;
  - (c) a refusal to implement a provision of the treaty binding upon all the parties and requiring the submission of any dispute arising out of the interpretation or application of the treaty to arbitration or judicial settlement, or a refusal to accept an award or judgement rendered under such a provision.
3. In the case of a bilateral treaty, a material breach by one party constitutes a ground upon which the other party may either —
  - (a) denounce the treaty or suspend its operation, subject to the reservation of its rights with respect to any loss or damage resulting from the breach; or
  - (b) denounce only the provision of the treaty which has been broken or suspend its operation, subject to the same reservation.
4. In the case of a multilateral treaty other than one falling under paragraph 5, a material breach by one party constitutes a ground upon which —

(a) any other party may, in the relations between itself and the defaulting State, either —

(i) terminate or suspend the application of the treaty, subject to the reservation of its rights mentioned in paragraph 3; or

(ii) terminate or suspend the application only of the provision of the treaty which has been broken, subject to the same reservation;

(b) the other parties to the treaty, by an agreement arrived at in accordance with the provisions of article 18 of this part, may collectively either —

(i) terminate the treaty or suspend its application; or

(ii) terminate or suspend the application only of the particular provision which has been broken. Provided that, if a material breach of a treaty by one or more parties is of such a kind as to frustrate the object and purpose of the treaty also in the relations between the other parties not involved in the breach, any such other party may, if it thinks fit, withdraw from the treaty.

5. In the case of a material breach of a treaty which is the constituent instrument of an international organization, or which has been concluded within an international organization, any question of the termination or suspension of the rights or obligations of any party to the treaty shall be determined by decision of the competent organ of the organization concerned, in accordance with its applicable voting rules.