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RESERVATIONS TO TREATIES

Titles and texts of the draft guidelines adopted by the Drafting Committee

2.2.1 Formal confirmation of reservations formulated when signing a treaty

If formulated when signing a treaty subject to ratification, act of formal confirmation, acceptance or approval, a reservation must be formally confirmed by the reserving State or international organization when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

2.2.2 [2.2.3]* Instances of non-requirement of confirmation of reservations formulated when signing a treaty

A reservation formulated when signing a treaty does not require subsequent confirmation when a State or an international organization expresses by its signature the consent to be bound by the treaty.

* The number between square brackets indicates the number of this draft guideline in the report of the Special Rapporteur. The draft guideline 2.2.2 proposed by the Special Rapporteur was deleted.

2.2.3 [2.2.4] Reservations formulated upon signature when a treaty expressly so provides

A reservation formulated when signing a treaty, where the treaty expressly provides that a State or an international organization may make such a reservation at that time, does not require formal confirmation by the reserving State or international organization when expressing its consent to be bound by the treaty.

2.3.1 Late formulation of a reservation

Unless the treaty provides otherwise, a State or an international organization may not formulate a reservation to a treaty after expressing its consent to be bound by the treaty except if none of the other contracting Parties objects to the late formulation of the reservation.

2.3.2 Acceptance of formulation of a reservation

Unless the treaty provides otherwise or the well established practice followed by the depositary differs, late formulation of a reservation shall be deemed to have been accepted by a contracting party if it has made no objections to such formulation after the expiry of the 12-month period following the date on which notification was received.

2.3.3 Objection to late formulation of a reservation

If a contracting Party to a treaty objects to late formulation of a reservation, the treaty shall enter into or remain in force in respect of the reserving State or international organization without the reservation being established.

2.3.4 Subsequent exclusion or modification of the legal effects of a treaty by means other than reservations

A contracting party to a treaty may not exclude or modify the legal effect of provisions of the treaty by:

- (a) interpretation of a reservation made earlier; or
- (b) a unilateral statement made subsequently under an optional clause.

2.4.3 Time at which an interpretative declaration may be formulated

Without prejudice to the provisions of guidelines 1.2.1, 2.4.5 [2.4.7], and 2.4.6 [2.4.8] an interpretative declaration may be formulated at any time.

2.4.4 [2.4.5] Non-requirement of confirmation of interpretative declarations made when signing a treaty

An interpretative declaration made when signing a treaty does not require subsequent confirmation when a State or an international organization expresses its consent to be bound by the treaty.

2.4.5 [2.4.4] Formal confirmation of conditional interpretative declarations formulated when signing a treaty

If a conditional interpretative declaration is formulated when signing a treaty subject to ratification, act of formal confirmation, acceptance or approval, it must be formally confirmed by the declaring State or international organization when expressing its consent to be bound by the treaty. In such a case the interpretative declaration shall be considered as having been made on the date of its confirmation.

2.4.6 [2.4.7]* Late formulation of an interpretative declaration

Where a treaty provides that an interpretative declaration may be made only at specified times, a State or an international organization may not formulate an interpretative declaration concerning that treaty subsequently except if none of the other contracting Parties objects to the late formulation of the interpretative declaration.

2.4.7 [2.4.8] Late formulation of a conditional interpretative declaration

A State or an international organization may not formulate a conditional interpretative declaration concerning a treaty after expressing its consent to be bound by the treaty except if none of the other contracting Parties objects to the late formulation of the conditional interpretative declaration.

* The draft guideline 2.4.6 proposed by the Special Rapporteur was deleted.