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RESERVATIONS TO TREATIES

**Titles and texts of the draft guidelines adopted by the Drafting Committee
on 7, 9, 13, 14, 16 and 28 May 2008**

2.1.6 [2.1.6, 2.1.8] Procedure for communication of reservations

Unless otherwise provided in the treaty or agreed by the contracting States and contracting organizations, a communication relating to a reservation to a treaty shall be transmitted:

- (i) If there is no depositary, directly by the author of the reservation to the contracting States and contracting organizations and other States and international organizations entitled to become parties to the treaty; or
- (ii) If there is a depositary, to the latter, which shall notify the States and organizations for which it is intended as soon as possible.

A communication relating to a reservation shall be considered as having been made with regard to a State or an international organization only upon receipt by that State or organization.

Where a communication relating to a reservation to a treaty is made by electronic mail or by facsimile, it must be confirmed by diplomatic note or depositary notification. In such a case the communication is considered as having been made at the date of the electronic mail or the facsimile.

2.1.9 Statement of reasons

A reservation should to the extent possible indicate the reasons why it is being made.

2.6 Formulation of objections

2.6.5 Author

1. Any contracting State or any contracting international organization may make an objection to a reservation.
2. Any State or international organization that is entitled to become a party to a treaty may make a declaration by which it purports to object to a reservation. Such a declaration becomes an objection within the meaning of paragraph 1 at the time the State or the international organization expresses its consent to be bound by the treaty.

2.6.6 Joint formulation

The joint formulation of an objection by several States or international organizations does not affect the unilateral character of that objection.

2.6.7 Written form

An objection must be formulated in writing.

2.6.8 Expression of intention to preclude the entry into force of the treaty

When a State or international organization making an objection to a reservation intends to preclude the entry into force of the treaty as between itself and the reserving State or international organization, it shall definitely express its intention before the treaty would otherwise enter into force between them.

2.6.9 Procedure for the formulation of objections

Draft guidelines 2.1.3, 2.1.4, 2.1.5, 2.1.6 and 2.1.7 are applicable *mutatis mutandis* to objections.

2.6.10 Statement of reasons

An objection should to the extent possible indicate the reasons why it is being made.

2.6.11 Non-requirement of confirmation of an objection made prior to formal confirmation of a reservation

1. An objection to a reservation made by a State or an international organization before a reservation has been confirmed in accordance with draft guideline 2.2.1 does not itself require confirmation.
2. A declaration formulated under draft guideline 2.6.5, paragraph 2, with regard to a reservation of a State or an international organization made before this reservation has been confirmed in accordance with draft guideline 2.2.1 does not itself require confirmation.

2.6.12 [2.6.13] Time period for formulating an objection

Unless the treaty otherwise provides, a State or an international organization may formulate an objection to a reservation by the end of a period of 12 months after it was notified of the reservation or by the date on which such State or international organization expresses its consent to be bound by the treaty, whichever is later.

2.6.13 [2.6.14] Conditional objections

An objection to a specific potential or future reservation does not produce the legal effects of an objection.

2.6.14 [2.6.15] Late objections

An objection to a reservation formulated after the end of the time period specified in guideline 2.6.12 [2.6.13] does not produce the legal effects of an objection made within that time period.

2.7 Withdrawal and modification of objections to reservations

2.7.1 Withdrawal of objections to reservations

Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.

2.7.2 Form of withdrawal

The withdrawal of an objection to a reservation must be formulated in writing.

2.7.3 Formulation and communication of the withdrawal of objections to reservations

Guidelines 2.5.4, 2.5.5 and 2.5.6 are applicable *mutatis mutandis* to the withdrawal of objections to reservations.

2.7.4 Effect on reservation of withdrawal of an objection

A State or an international organization that withdraws an objection formulated to a reservation is considered to have accepted that reservation.

2.7.5 Effective date of withdrawal of an objection

Unless the treaty otherwise provides, or it is otherwise agreed, the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State or international organization which formulated the reservation.

2.7.6 Cases in which an objecting State or international organization may unilaterally set the effective date of withdrawal of an objection to a reservation

The withdrawal of an objection becomes operative on the date set by its author where that date is later than the date on which the reserving State or international organization received notification of it.

2.7.7 Partial withdrawal of an objection

Unless the treaty provides otherwise, a State or an international organization may partially withdraw an objection to a reservation. The partial withdrawal of an objection is subject to the same formal and procedural rules as a complete withdrawal and becomes operative on the same conditions.

2.7.8 Effect of a partial withdrawal of an objection

The partial withdrawal modifies the legal effects of the objection on the treaty relations between the author of the objection and the author of the reservation to the extent of the new formulation of the objection.

2.7.9 Prohibition against the widening of the scope of an objection to a reservation

A State or international organization which has made an objection to a reservation may widen the scope of that objection during the time period referred to in draft guideline 2.6.12 [2.6.13] provided that the widening does not have as an effect the modification of treaty relations between the author of the reservation and the author of the objection.
