



# General Assembly

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## International Law Commission

### Sixty-third session

Geneva, 26 April–3 June and 4 July–12 August 2011

## Reservations to treaties

### Conclusions on the reservations dialogue provisionally adopted by the Working Group on Reservations to Treaties on 6, 12 and 14 July 2011

*The International Law Commission,*

*Recalling* the provisions on reservations to treaties contained in the Vienna Convention on the Law of Treaties and the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations,

*Taking into account* the seventeenth report<sup>1</sup> presented by the Special Rapporteur on the topic “Reservations to treaties”, which addresses the question of the reservations dialogue,

*Bearing in mind* the need to achieve a satisfactory balance between the objectives of safeguarding the integrity of multilateral treaties and securing the widest possible participation therein,

*Recognizing* the role that reservations to treaties may play in achieving this balance,

*Concerned* at the considerable number of reservations that appear incompatible with the limits imposed by the law of treaties, in particular article 19 of the Vienna Convention on the Law of Treaties,

*Aware* of the difficulties that States and international organizations face in assessing the validity of reservations,

*Convinced* of the usefulness of a pragmatic dialogue with the author of a reservation,

*Welcoming* the efforts made in recent years, including within the framework of international organizations and human rights treaty bodies, to encourage such a dialogue,

*I. Considers that:*

1. States and international organizations intending to formulate reservations should formulate them as precisely and narrowly as possible, consider limiting their scope

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<sup>1</sup> A/CN.4/647, paras. 2 to 68.

and ensure that they are not incompatible with the object and purpose of the treaty to which they relate;

2. In formulating a unilateral statement, States and international organizations should indicate whether it amounts to a reservation and, if so, explain why the reservation is deemed necessary and the effect it will have on the fulfilment by its author of its obligations under the treaty;

3. Statements of reasons by the author of a reservation are important for the assessment of the validity of the reservation, and States and international organizations should state the reason for any modification of a reservation;

4. States and international organizations should periodically review their reservations with a view to limiting their scope or withdrawing them where appropriate;

5. The concerns about reservations that are frequently expressed by States and international organizations, as well as monitoring bodies, may be useful for the assessment of the validity of reservations;

6. States and international organizations, as well as monitoring bodies, should explain to the author of a reservation the reasons for their concerns about the reservation and, where appropriate, request any clarification that they deem useful;

7. States and international organizations, as well as monitoring bodies, if they deem it useful, should encourage the withdrawal of reservations, the reconsideration of the need for a reservation or the gradual reduction of the scope of a reservation through partial withdrawals;

8. States and international organizations should address the concerns and reactions of other States, international organizations and monitoring bodies and take them into account, to the extent possible, with a view to reconsidering, modifying or withdrawing a reservation;

9. States and international organizations, as well as monitoring bodies, should cooperate as closely as possible in order to exchange views on reservations in respect of which concerns have been raised and coordinate the measures to be taken; and

*II. Recommends that:*

The General Assembly call upon States and international organization, as well as monitoring bodies, to initiate, undertake and pursue such a reservations dialogue in a pragmatic and transparent manner.

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