



# General Assembly

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## International Law Commission

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## Provisional application of treaties

### Text of the draft guidelines provisionally adopted by the Drafting Committee at the sixty-seventh and sixty-eighth sessions

#### Draft guideline 1

##### Scope

The present draft guidelines concern the provisional application of treaties.

#### Draft guideline 2

##### Purpose

The purpose of the present draft guidelines is to provide guidance regarding the law and practice on the provisional application of treaties, on the basis of Article 25 of the Vienna Convention on the Law of Treaties and other rules of international law.

#### Draft guideline 3

##### General rule

A treaty or a part of a treaty may be provisionally applied, pending its entry into force, if the treaty itself so provides, or if in some other manner it has been so agreed.

#### Draft guideline 4

##### Form

In addition to the case where the treaty so provides, the provisional application of a treaty or part of a treaty may be agreed through:

- (a) a separate agreement; or
- (b) any other means or arrangements, including a resolution adopted by an international organization or at an intergovernmental conference.



**Draft guideline 5\***

[...]

**Draft guideline 6**

**Commencement of provisional application**

The provisional application of a treaty or a part of a treaty, pending its entry into force between the States or international organizations concerned, takes effect on such date, and in accordance with such conditions and procedures, as the treaty provides or as are otherwise agreed.

**Draft guideline 7**

**Legal effects of provisional application**

The provisional application of a treaty or a part of a treaty produces the same legal effects as if the treaty were in force between the States or international organizations concerned, unless the treaty provides otherwise or it is otherwise agreed.

**Draft guideline 8**

**Responsibility for breach**

The breach of an obligation arising under a treaty or a part of a treaty that is provisionally applied entails international responsibility in accordance with the applicable rules of international law.

**Draft guideline 9**

**Termination upon notification of intention not to become a party**

Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State or international organization shall be terminated if that State or international organization notifies the other States or international organizations between which the treaty or a part of a treaty is being applied provisionally of its intention not to become a party to the treaty.

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\* The Drafting Committee decided to keep draft guideline 5 on unilateral declarations in abeyance and to return to it at a later stage.