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STATEMENT

BY
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ON
AGENDA ITEM 81
“REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS SIXTY-FIFTH SESSION- Part-2”

AT THE
SIXTH COMMITTEE OF THE 68TH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

NEW YORK

01 November 2013

Mr. Chairman,

"Reservations to Treaties" is a topic which the Commission has been discussing since 1995. We congratulate the Special Rapporteur, Prof. Alain Pellet, for the adoption by the Commission of the "Guide to Practice on Reservations to Treaties", along with commentaries. Prof. Pellet submitted a total of 17 reports, beginning with his first report on the topic in 1995. The "Guide to Practice" is very detailed and nuanced work, which tries to cover all possible situations, and is based on an in-depth and exhaustive analysis of State practice and case law.

It contains very useful material on doctrinal discussion and valuable examples by way of elucidation of the guidelines and is sure to be an invaluable tool for government legal advisers as well as practitioners in resolving problems posed by reservations to treaties and interpretative declarations.

Mr. Chairman,

In addition to the Guide to Practice, the Commission has also adopted an annex on the "reservations dialogue" as well as a recommendation on "mechanisms of assistance in relation to reservations".

The Commission has set out nine 'conclusions' in the annex on the 'reservations dialogue', and recommended that – The General Assembly call upon States and international organizations, as well as monitoring bodies, to initiate and pursue such a reservations dialogue in a pragmatic and transparent manner. We support this proposal.

As regards the proposal for a Reservation Assistance Mechanism, We are willing to take this recommendation forward and are of the view that the suggestion to create a small group of experts within the Sixth Committee is

worth further examination. This group could make recommendations to States in order to settle differences of view concerning reservations' and provide States with 'technical assistance in formulating reservations or objections to reservations as suggested by the Special Rapporteur. However, we do not see that any compulsory procedure in this regard would be acceptable to States.

As regards the Observatories, different regional mechanisms like CAHDI have been suggested as templates, these need to be more fully discussed within the Sixth Committee.

Mr. Chairman,

In spite of the authority of the Special Rapporteur and rich material he brought into play, the process of drafting the guidelines has not been an easy one. Nevertheless, the end product is not only the result of a careful examination of the various nuances involved but also the product of general consensus within the Commission. Accordingly, we accept these guidelines as a useful contribution to the process of international law-making. These guidelines are likely to give rise to fewer problems from a policy and political angle as they are not intended to revise the regime of reservations contained in the Vienna Convention on Law of Treaties.

Mr. Chairman,

We congratulate and thank the Special Rapporteur once again for an excellent job done and are sure the legal offices of foreign ministries would heavily draw on these guidelines to find answers to many difficult substantive and procedural issues concerning reservations to treaties and interpretative declarations.

Thank you.