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Addendum

Guide to Practice on Reservations to treaties

(Chapter IV of the 2011 Report)

Statement delivered by Mrs. Alina Orosan

Director for International Law and Treaties

Ministry of Foreign Affairs

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573-577 Third Avenue, New York, NY 10016, Phone: (212)-682-3273, (212)-682-3274, Fax: (212)-682-9746
Homepage: <http://mpnewyork.mae.ro>, Email: misiune@romaniaun.org

Mr. Chairman,

First of all, please allow me to renew the deepest appreciation of my delegation to the International Law Commission and particularly to the Special Rapporteur, Professor Alain Pellet, for the completion of *The Guide to Practice on Reservations to Treaties*. The Guide to Practice represents, as the title suggests, an excellent tool for practitioners in the field of international law, striving to find solutions and answers to the difficult questions that may arise in practice with respect to reservations.

We have read the *Guide to Practice on Reservations to Treaties* and carefully listened to Professor's Pellet statements. All in all, we welcome the General Commentary, the impressive number of examples taken from practice and the very useful bibliography provided at the end of the Guide.

On a more particular note, it should be said that some of the guidelines within the Guide to Practice are derived from the provisions of the 1969 *Vienna Convention on the law of the treaties*, the 1978 *Vienna Convention on Succession of States in respect of Treaties* and the 1986 *Vienna Convention on the law of the treaties between states and international organizations or between international organizations*, while others, as it is the case of the ones related to interpretative declarations, try to fill the gap left by the silence of these treaties on the matter. Some of these guidelines are *lex lata*, while others represent *lex ferenda*.

In most of the cases we agree with the outcome resulted in the guidelines. In a few cases we opine differently, but, irrespective of this, we highly appreciate the arguments presented in the commentary justifying the options identified, and we assume to reflect more on them in order to better refine our own line of reasoning.

The best way to illustrate the abovementioned is the subject of "*late reservations*". While acknowledging the Special Rapporteur's approach on the subject of the late formulation of reservations, we share the concerns raised with respect to this issue by other delegations. We believe that the approach on this matter taken in the Guide to Practice represents a significant departure from the regime of the 1969 *Vienna Convention on the Law of Treaties* and should be treated with extreme caution. Even if we appreciate the effort of Professor Pellet to give good reason for the conclusions in the Guide on late reservations, we should not legitimize or encourage this practice, as it might turn out to be done at the expense of legal certainty.

However, practice in respect to reservations to treaties has known alternative procedures to lodging late reservations, such as denunciation of conventions, followed shortly by demarches for re-accession, with reservations, to the same conventions. It is our assessment that such a procedure is also questionable, as it may have similar negative effects on the legal certainty and should be equally discouraged.

At the same time, we welcome the deletion of former guideline 3.3.3 on the effects of collective acceptance of an impermissible reservation. We believe that the abovementioned guideline was quite controversial, as we have some doubts that a collective acceptance could simply "*cure*" the invalidity of such a reservation.

Mr. Chairman,

I cannot finish my statement without reiterating our appreciation for the work and effort Mr. Pellet has put into this comprehensive study on this ever actual topic in international law - reservations to treaties. It could be that the future development of the international law on treaties would prove that Mr. Pellet was a visionary in the way he approached some of the issues that today appear controversial.

Thank you.