



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

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**STATEMENT BY MRS RENA LEE,
DELEGATE TO THE 68th SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY
ON AGENDA ITEM 81,
ON PART 2 OF THE REPORT OF THE INTERNATIONAL LAW
COMMISSION ON THE WORK OF ITS SIXTY-THIRD AND SIXTY-FIFTH
SESSIONS,
SIXTH COMMITTEE,
30 OCTOBER 2013**

[Please check against delivery]

1. My delegation would like to reiterate our congratulations to the Commission on completing the Guide to Practice, its commentaries, and the annex on the "reservations dialogue". In particular, we once again wish to commend the efforts of the Special Rapporteur, Professor Alain Pellet, who has worked with admirable determination on this difficult but critical area of international law for some 17 years.

2. We welcome the overall approach to reservations to treaties that the Guide to Practice seeks to encourage, and in particular the greater process transparency which it seeks to achieve. We have no doubts that extensive reference will be made to the Guide to Practice by practitioners of international law and academics alike as its wide scope of coverage, and broad references to state practice and judicial decisions is a well of knowledge from which we can all draw upon.

3. The Singapore delegation wishes to make two comments on the Guide to Practice on Reservations to Treaties.

Guideline 4.5.3 on the Status of the Author of an Invalid Reservation

4. First, the Singapore delegation welcomes the Commission's decision to emphasise the importance of the intention of the reserving State in cases of invalid reservations. We agree with the Commission's consideration that "the key to the problem is simply the will of the author of the reservation: does the author intend to be bound by the treaty even if its reservation is invalid — without benefit of the reservation — or is its reservation a *sine qua non* for its commitment to be bound by the treaty?"

5. We note that the positive presumption in the guideline is not intended to undermine the principle of State consent under treaty law. Rather, the positive presumption can be rebutted when the intention of the author is examined. Importantly, we agree with the Commission that the positive presumption adopted in this guideline is not intended to be authority for objections with "super-maximum" effect. As indicated in the commentary, guideline 4.5.3 is part of "cautious progressive development" of the law which should go some way in clarifying an area of the reservations regime that was left unclear by the Vienna Conventions on the Law of Treaties.

Guidelines 3.2.1 – 3.2.4 on the Assessment of the Permissibility of Reservations by Treaty Monitoring Bodies

6. Second, the Singapore delegation notes that Guidelines 3.2.1 – 3.2.4 on the assessment of the permissibility of reservations by treaty monitoring bodies are not intended to undermine the traditional role of States in this area. We accept that such bodies may in certain circumstances be competent to make such an assessment, but they may only do so to the extent required to carry out the functions assigned to them.

7. We would urge circumspection when it comes to identifying the role of such bodies in arriving at such assessments as they would in essence be operating in an area which touches upon the sovereign rights of states – which is to decide upon the manner and basis with which they consent to be bound by treaties.

8. In concluding, Mr Chairman, my delegation takes note of the Commission’s suggestion for the General Assembly to consider establishing a reservations assistance mechanism. The Commission has proposed that States may undertake to accept as compulsory, the mechanism’s proposals to resolve differences in opinions concerning reservations. We also take note of the Commission’s suggestion for the General Assembly to establish an “observatory” for reservations within the Sixth Committee. As the Commission itself has observed, parts of the Guide represent progressive development of international law. While there is some state practice supporting the “reservations dialogue”, my delegation is of the view that it is preferable for practice to develop around the Guide before the establishment of a mechanism is considered.

9. Thank you, Mr Chairman.

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