



IRELAND

Statement by

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at the

Sixth Committee

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Agenda Item 82:

The Report of the International Law Commission on the Work

of its 72nd Session

Cluster I - Ch I,II,III, IV (Protection of the Atmosphere), V (Provisional Application of
Treaties) and X (Other Decisions)

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Madam Chair,

1. As this is my delegation's first opportunity to address the Sixth Committee in relation to the Report of the International Law Commission, I would like to express Ireland's gratitude to the President and members of the Commission, as well as the staff in the Secretariat, for all the hard work that they have done since we last met to discuss the work of the Commission in 2019. Notwithstanding the difficult circumstances arising out of the COVID-19 pandemic, they have endeavoured to fulfill their mandate. My delegation commends them for their use of new technologies to enable the continuation of their valuable work on our behalf, which has enabled the preparation of the Report we are now discussing.
2. My remarks today will focus on the topic of "**Provisional application of Treaties**".
3. My delegation would like to thank the Special Rapporteur Mr Juan Manual Gomes Robledo for successfully steering this topic to its conclusion. His tireless work since 2012 has come to fruition with the adoption by the Commission of the Guide on Provisional Application of Treaties, together with its associated Recommendation to the General Assembly.
4. Ireland aligns itself with the statement delivered by the European Union in relation to this topic and would like to make the following additional observations.

Madam Chair,

5. Ireland welcomes the adoption of the Guide by the Commission – the guidelines together with their associated commentaries provide a valuable practical tool for states and international organisations. Ireland also supports the Commission's recommendation to the General Assembly as outlined in Section C of Chapter V of the Report.
6. My delegation commends the Commission for its clear indication in the General commentary that the objective of the Guide is to direct users to answers that are consistent with existing rules or that seem most appropriate for contemporary practice; to describe and clarify existing rules of international law in the light of contemporary practice; thus generally reflecting *lex lata*, albeit with some more recommendatory aspects.

7. In reviewing the guidelines and commentaries, we note with satisfaction that the legal effect of provisionally applying a treaty, or part of a treaty, is unequivocally affirmed in Guideline 6. Considering that Article 25 of the 1969 Vienna Convention on the Law of Treaties and Article 25 of the 1986 Convention on the Law of Treaties between States and International Organizations or between International Organizations are both silent as to the legal effects of provisional application, this guideline is an important confirmation of the legal obligation on States and international organisations to apply in good faith those provisions that are subject to provisional application. My delegation also welcomes the commentary explaining in more detail the legal effect of provisional application in its two elements. However, as paragraph (3) of the General commentary acknowledges, provisional application is not an alternative to full application of a treaty. Rather, provisional application is a complementary and temporary regime.
8. Moreover, as is indicated in paragraph (2) of the General Commentary, the provisional application is a practical tool and it is the flexible nature of provisional application that makes it attractive to States and international organisations. In that respect, Ireland is pleased to see that the guidelines and accompanying commentaries place an appropriate emphasis on this inherent flexibility.
9. Ireland further appreciates the inclusion of the Annex to the Guide, with extensive examples of existing treaty provisions which have been used to address various aspects of provisional application. My delegation is satisfied that the current approach provides a sufficiently large number of illustrative examples to assist States and international organisations in dealing with the most common issues that they face in considering provisional application of treaties.
10. It is clear, especially from paragraph (3) of the General commentary, that the Guide is not intended to be a comprehensive or exhaustive account of all issues concerning the provisional application of treaties. This is understandable in light of a lack of State practice on many aspects of this topic, such as the effect of reservations referenced in the statement of the European Union in relation to Guideline 7. We further note that there are other important aspects of the provisional application of treaties that are beyond the scope of this guide, such as the impact of provisional application of provisions creating institutional mechanisms. Further research on these topics may be warranted as State practice develops into the future.

Thank you Madam Chair