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Reservations to treaties

Recommendation on mechanisms of assistance in relation to reservations, provisionally adopted by the Working Group on Reservations to Treaties on 27 July 2011

The International Law Commission,

Having completed the preparation of the Guide to Practice on Reservations to Treaties,

Aware of the difficulties faced by States in the formulation, interpretation, assessment of the permissibility, and implementation of reservations and objections thereto,

Attaching great importance to the principle that States should engage in the pacific settlement of their international disputes,

Considering that the adoption of the Guide to Practice could be supplemented by the establishment of flexible mechanisms to assist States in the implementation of the legal rules applicable to reservations,

Suggests that the General Assembly:

1. Consider establishing within its Sixth Committee an “observatory” on reservations to treaties, and also recommend that States consider establishing similar “observatories” at the regional and subregional levels;¹
2. Consider establishing a reservations assistance mechanism, which could take the form described in the annex to this recommendation.

¹ Such “observatories” could draw their inspiration from that established within the Council of Europe *Ad hoc* Committee of Legal Advisers on Public International Law (CAHDI).

Annex

- (i) The reservations and objections to reservations assistance mechanism could consist of a limited number of experts, selected on the basis of their technical competence and their practical experience in public international law and, specifically, treaty law.
 - (ii) The mechanism could meet, as needed, to consider problems related to reservations, or objections to and acceptances of reservations, that are submitted to it.
 - (iii) The mechanism could make proposals to requesting States in order to settle differences of view concerning reservations. States that have such differences could undertake to accept proposals for their resolution as compulsory.
 - (iv) The mechanism could also provide a State with technical assistance in formulating reservations to a treaty or objections to reservations formulated by other States.²
 - (v) In making its proposals, the mechanism should take into account the provisions on reservations contained in the 1969, 1978 and 1986 Vienna Conventions on the Law of Treaties and the guidelines contained in the Guide to Practice.
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² The experts that would be called to assist States for the settlement of differences of view in accordance with paragraph (iii) should be different from those who would have provided assistance to one of the parties under paragraph (iv).