

INTERNATIONAL LAW COMMISSION

Seventy-second session

Geneva, 26 April-4 June and

5 July-6 August 2021

**PROVISIONAL APPLICATION OF TREATIES**

**Statement of the Chairperson of the Drafting Committee**

**Ms. Patrícia Galvão Teles**

**3 June 2021**

Mr. Chairperson,

It is my pleasure, today, to introduce the second report of the Drafting Committee for the seventy-second session of the International Law Commission. The report, which is to be found in document A/CN.4/L.952, contains the texts and titles of the 12 draft guidelines on provisional application of treaties adopted by the Drafting Committee on second reading during the first part of the session.

The Drafting Committee held five meetings and one round of informal consultations on the topic, from 17 to 21 May 2021. It proceeded on the basis of a revised proposal, prepared by the Special Rapporteur, taking into account the comments and suggestions made during the

Plenary debate of his sixth report. The Drafting Committee also held two meetings this week, on 1 and 2 June, during which it considered the draft model clauses proposed by the Special Rapporteur in his sixth report. Unfortunately, for reasons of lack of time, the outcome of those meetings will only be presented to the Commission in an additional report of the Drafting Committee during the second part of the session. It will be at that point that the Commission will be invited to consider and adopt the entire set of draft guidelines and draft model clauses on second reading. For today, it is my recommendation that the Commission only take note of the 12 draft guidelines set out in document A/CN.4/L.952.

Before commencing with the introduction of the draft guidelines, allow me to pay tribute to the Special Rapporteur, Mr. Juan Manuel Gomez Robledo, whose constructive approach, flexibility and patience once again greatly facilitated the work of the Drafting Committee. I also thank the other members of the Committee for their active participation and significant contributions. Furthermore, I wish to thank the Secretariat for its valuable assistance. As always, and on behalf of the Drafting Committee, I am pleased to extend my appreciation to the interpreters.

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## **Draft guideline 1**

Mr. Chairperson,

Draft guideline 1 deals with the scope of the draft guidelines. The Drafting Committee slightly modified the amendment proposed by the Special Rapporteur in his sixth report by replacing “and” with “or by”. The final version provides that the draft guidelines concern the provisional application of treaties “by States or by international organizations”. This formulation is meant to make clear that the scope of the draft guidelines is not limited to treaties concluded between States, between States and international organizations or between international organizations, but it extends to treaties that States or international organizations apply provisionally in relation to other subjects of international law. Considering this amendment and

the clarification implied therein, the Drafting Committee emphasized the added value of draft guideline 1 as a self-standing provision, which should not be merged with draft guideline 2.

The Drafting Committee also considered changing “treaties” to “a treaty, or part of a treaty” and “States and international organizations” to “a State or by an international organization” in order to align draft guideline 1 with the singular form used in subsequent draft guidelines. However, it decided to keep the above terms in the plural because the scope should reflect the reference to “provisional application of treaties” in the title of the draft guidelines.

The title of draft guideline 1 is “Scope”, which was the title adopted on first reading.

## **Draft guideline 2**

Mr. Chairperson,

Draft guideline 2 concerns the purpose of the draft guidelines. Following the plenary debate, the Special Rapporteur presented a proposal to add “any” and “relevant” to the phrase “other rules of international law” to clarify that the phrase only refers to those other rules of international law relevant to the provisional application of treaties. It may be recalled that this phrase *inter alia* refers to the rules contained in the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, which has not yet entered into force. The Drafting Committee settled on the phrase “other relevant rules of international law” without the quantifier “any” because “any” could incorrectly imply that there are no other relevant rules of international law.

The title of draft guideline 2 is “Purpose”, which was the title adopted on first reading.

## **Draft guideline 3**

Mr. Chairperson,

I will now turn to draft guideline 3, which reflects the general rule on provisional application of treaties contained in article 25, paragraph 1, of the Vienna Convention on the Law of Treaties, of 1969. The Drafting Committee largely retained the text of draft guideline 3 as adopted on first reading. In doing so, the Drafting Committee intended to replicate and, by making some minor changes, bring draft guideline 3 further into line with the text of the Vienna Convention.

Taking into account suggestions made in the plenary, the Special Rapporteur made a proposal to replace the phrase “between the States and international organizations concerned” with “by all States or international organizations assuming rights and obligations pursuant to its provisional application”. It may be recalled that the Commission adopted the phrase “States and international organizations concerned” on first reading, instead of the term “negotiating States” found in article 25, paragraph 1 (b), of the Vienna Convention on the Law of Treaties. The phrase was intended to reflect the existence of practice of States or international organizations provisionally applying treaties, in whose negotiation they had not participated. By making a proposal to modify the phrase, the Special Rapporteur sought to indicate to which States or international organizations the agreement on provisional application applies. The Drafting Committee did not consider that the proposal accurately reflected the possibility that some States or international organizations might continue to provisionally apply a treaty even after its entry into force for others. To clarify such temporal scope of provisional application, it was suggested to broaden draft guideline 5 to include commencement and termination of provisional application through entry into force. The Drafting Committee also discussed omitting the reference to the “States and international organizations” entirely.

Draft guideline 3, as adopted on second reading, does not incorporate those different amendments and retains the first reading phrase “between the States and international organizations concerned”. As the commentaries will explain, the Drafting Committee was of the view that the phrase better reflects the fact that provisional application may continue for those States or international organizations for which the treaty has not entered into force, after entry into force of the treaty itself. The commentaries will also make clear that the agreement on provisional application only applies to those States or international organizations that assumed rights and obligations pursuant to provisional application. The Drafting Committee only made two modifications to draft guideline 3, both intended to further align the text with article 25, paragraph

1, of the Vienna Convention on the Law of Treaties. First, the phrase “may be” was replaced by “is”. Moreover, the words “provisionally applied” were reversed to read “applied provisionally”.

The Drafting Committee retained the title of draft guideline 3 on first reading, which is “General rule”.

#### **Draft guideline 4**

Mr. Chairperson,

Draft guideline 4 concerns the forms by which States or international organizations may agree to provisionally apply a treaty. Based on a proposal by the Special Rapporteur, the Drafting Committee added the words “between the States or international organizations concerned” in the chapeau of the provision to specify who may agree on provisional application by the forms listed in paragraphs (a) and (b).

##### *Paragraph (a)*

Paragraph (a), which refers to “a separate treaty” as a form of agreement on provisional application, remained unchanged.

##### *Paragraph (b)*

Paragraph (b) has been changed more significantly from the first reading version. As a result of an extensive discussion on the forms of agreement on provisional application other than a treaty, the Drafting Committee decided to split paragraph (b) into a chapeau and two subparagraphs to draw a clearer distinction between institutional means or arrangements on provisional application and declarations by individual States or international organizations to provisionally apply a treaty, which are a rare occurrence in practice. The chapeau, which reads “any other means or arrangements, including” is drawn from the opening phrase of the first reading version. The Drafting Committee also considered the phrases “such as” and “such as but not

limited to”, but ultimately retained “including” as the most inclusive term. For reasons of inclusiveness and flexibility, the Drafting Committee also kept “arrangements” in the plural in the English version while acknowledging that the French version would refer to “arrangement” in the singular. To further stress that the forms listed in paragraph (b) are not exhaustive, the Drafting Committee refrained from connecting subparagraphs (i) and (ii) through an “or”.

#### *Subparagraph (i)*

Subparagraph (i) refers to “a resolution, decision or other act adopted by an international organization or at an intergovernmental conference” as a means to agree on provisional application. Based on a proposal by the Special Rapporteur, the Drafting Committee added “decision or other act” after the “resolution”, which is consistent with the provisions drafted by the Commission in other projects, such as article 2, subparagraph (b) of the articles on responsibility of international organizations, and draft conclusion 16 of the draft conclusions on peremptory norms of general international law (*jus cogens*) on first reading.

Moreover, the Drafting Committee added “in accordance with the rules of such organization or conference, reflecting the agreement of the States or international organizations concerned” to the first reading text. This addition originated in a revised proposal by the Special Rapporteur to replace the amendment suggested in his sixth report “if such resolution has not been opposed by the State concerned”. With that amendment, the Special Rapporteur had intended to take into account the concerns expressed by governments and international organizations that a resolution could only be used to agree on provisional application if that resolution was accepted by the States or international organizations concerned. After the plenary debate, the Special Rapporteur revised his amendment by proposing the broader phrase “subject to the rules of the international organization or of the intergovernmental conference concerned”.

At the outset, the Drafting Committee discussed whether an explicit reference to the rules of the organization in the draft guideline was necessary as it was evident that any resolution, decision or other act was adopted in accordance with the rules of the organization. The decision to include a reference to the rules of the organization was motivated by the objective of the draft guidelines to guide States and international organizations in their relevant practice. Further modifying the revised proposal by the Special Rapporteur, the Drafting Committee changed

“subject to” to “in accordance with” and added the phrase “reflecting the agreement of the States or international organizations concerned”. The gerund “reflecting” was preferred over “which reflect” to tie the agreement more closely to “resolution, decision or other act” so as to alleviate the above-mentioned concerns of governments and international organizations regarding the importance of consent. The Drafting Committee considered adding “direct” or “express” as a qualifier before “agreement”, but it decided that such nuances were best explained in the commentaries.

#### *Subparagraph (ii)*

Subparagraph (ii) retains the second part of paragraph (b), as adopted on first reading, by referring to “a declaration by a State or by an international organization that is accepted by the other States or international organizations concerned”. The Drafting Committee decided against a proposal to move the phrase “reflecting the agreement of the States or international organizations concerned” from subparagraph (i) to the chapeau of paragraph (b), because subparagraph (ii) already refers to the acceptance by the other States or international organizations concerned. In addition, the general chapeau to draft guideline 4 contains a reference to the “agree[ment] between the States or international organizations concerned”. The Drafting Committee reiterated that subparagraph (ii) does not refer to “unilateral” declarations of States, which could give rise to legal effects regardless of the acceptance of other States or international organizations. In contrast, the provisional application of a treaty or part of a treaty presupposes an agreement between States or international organizations to have a legal effect.

The Drafting Committee also considered whether other and more common forms of agreement on provisional application should be explicitly listed in a new subparagraph (iii), such as the exchange of notes and notifications transmitted by the depositary of a multilateral treaty. It agreed that the commentary would explain that an exchange of notes constitutes, in many cases, a separate treaty and is thus covered by subparagraph (a). Situations in which an exchange of notes does not constitute a separate treaty, and depositary notifications on provisional application, would be covered by the phrase in the chapeau to subparagraph (b) “any other means or arrangements”.

This approach also finds support in the commentaries to the 1966 draft articles on the law of treaties regarding draft article 22 on “Entry into force provisionally”.<sup>1</sup>

The Drafting Committee decided to retain the first reading version of the title of draft guideline 4, namely “Form of agreement”.

### **Draft guideline 5**

Mr. Chairperson,

I now turn to draft guideline 5, which concerns the commencement of provisional application. Following a proposal by the Special Rapporteur, in reaction to suggestions made by Governments, the Drafting Committee deleted the reference to “pending its entry into force between the States or international organizations concerned”, which is already contained in the general rule in draft guideline 3. The Special Rapporteur had also proposed to add the clause “without prejudice to what is provided for under article 24, paragraph 4, of the Vienna Convention on the Law of Treaties and other relevant rules of international law” at the end of draft guideline 3. Article 24, paragraph 4, of the Vienna Convention states that certain provisions regarding matters arising necessarily before the entry into force of a treaty, such as those concerning the authentication of its text or the functions of the depositary, apply from the time of the adoption of its text. Those provisions thus apply automatically without the need to agree on their provisional application. While the Drafting Committee agreed that some of the elements listed in article 24, paragraph 4, of the Vienna Convention could be relevant for provisional application, such relevance should be explained in the commentaries.

The title of draft guideline 5 is “Commencement”. The Drafting Committee decided to shorten the first reading title “Commencement of provisional application” to align it with the titles of other draft guidelines.

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<sup>1</sup> Yearbook of the International Law Commission, 1966, Vol. II, p. 210.



## **Draft guideline 6**

Mr. Chairperson,

I now turn to draft guideline 6, which deals with the legal effect of provisional application and contains two sentences. Two types of “legal effect” might be envisaged in relation to the provisional application of a treaty: the legal effect of the agreement to provisionally apply the treaty or a part of a treaty, and the legal effect of the treaty or a part of it that is being provisionally applied. Draft guideline 6 mainly focuses on the legal effect of the treaty or part of the treaty that is being provisionally applied.

The first sentence reflects the first reading version of draft guideline 6 with two modifications. Considering a proposal by the Special Rapporteur in his sixth report, based on comments received from Governments, and the support expressed for that proposal in the plenary, the phrase “as if the treaty were in force” was deleted from the first reading version. Throughout the consideration of the topic by the Commission, the phrase had given rise to diverging views on the question to which provisional application has legal effects and the extent to which these effects are the same as those of entry into force. As the comments and observations regarding the first version of draft guideline 6 had shown, those views could not be reconciled through an explanation in the commentaries. The Drafting Committee emphasized that the deletion of that phrase should not be understood as having any implications for the application of the rules of the Vienna Convention on the Law of Treaties that are not covered by the draft guidelines. The objective of the draft guidelines is the identification of those elements in the Vienna Convention that might be relevant for provisional application, which is mainly regulated by article 25. The Drafting Committee discussed the addition of a draft guideline stating that the draft guidelines are without prejudice to the application of other rules of the law of treaties, but it decided that this point would be better addressed in the commentaries. The second modification is the replacement of “unless” with “except to the extent that” to avoid giving the impression that provisional application might not have any legal effect at all and to depict the flexibility of the provision more accurately.

The second sentence of draft guideline 6 is new and reads: “Such treaty or part of a treaty that is being applied provisionally must be performed in good faith.” This sentence is based on a proposal of the Special Rapporteur for a new paragraph 2 to include the good faith obligation

stipulated in article 26 of the Vienna Convention on the Law of Treaties in draft guideline 6. In the plenary, it had been suggested to replace the phrase “a legally binding obligation to apply the treaty or a part thereof” with a reference to the obligation to perform the provisionally applied treaty in good faith. However, the discussion in the Drafting Committee made clear that article 26 of the Vienna Convention refers to several legal effects. The first legal effect corresponds to the first sentence of draft guideline 6, i.e. the binding obligation produced by provisional application. The second legal effect is that the treaty in force “must be performed in good faith”. The Drafting Committee considered stating the second legal effect in a separate paragraph, as initially proposed by the Special Rapporteur, or referring to both legal effects in one single sentence by incorporating a reference to good faith. It settled on having a second sentence to set out the two legal effects more clearly. The link between the two sentences is indicated by the connector “Such” before “treaty or part of a treaty”, which implies that both legal effects pertain to the same treaty.

The title of draft guideline 5 is “Legal effect”. The first reading title was shortened by deleting “of provisional application” for reasons of consistency with the other titles. The Special Rapporteur had proposed adding “and *pacta sunt servanda*” to the title of the guideline, but the Drafting Committee noted that the principle of *pacta sunt servanda* was implied in “Legal effect”. The Drafting Committee also considered changing the title to the plural “Legal effects”. The singular was kept in line with titles of other draft guidelines on the understanding that “Legal effect” could imply a combination of legal effects.

### **Draft guideline 7**

Mr. Chairperson,

Draft guideline 7 concerns reservations relating to provisional application. It may be recalled that the inclusion of a draft guideline on reservations on first reading was somewhat controversial. At the time, the Commission decided to include draft guideline 7 in order to seek the views of States and international organizations on the provision, and to receive information on their relevant practice. Based on the comments and observations received, the Drafting Committee

concluded that it would be justified to retain a draft guideline on reservations in the context of provisional application. While the Commission was not aware of any significant practice in the area, States and international organizations generally seemed favorable to the provision. The Drafting Committee agreed on an approach that would, at a minimum, leave open the possibility of parties formulating reservations to a provisionally applied treaty.

Accordingly, the first reading version of draft guideline 7 was recast in the form of a without prejudice clause. The Special Rapporteur had initially presented a proposal stating that the draft guidelines “do not preclude the possibility for a State or an international organization to formulate, when agreeing to the provisional application of a treaty or part of a treaty, a reservation”. That proposal was intended to signal that reservations relating to the provisional application of a treaty were not prohibited. Given the complexities involved in making reservations to a treaty, however, a “without prejudice” clause was preferred on the understanding that the commentaries would discuss the points raised by States, international organizations and members of the Commission in the plenary regarding draft guideline 7. It was also considered important to make a reference in the commentaries to the distinction between bilateral and multilateral treaties.

The title of draft guideline 7 is “Reservations”, which was the title adopted on first reading.

### **Draft guideline 8**

Mr. Chairperson,

Draft guideline 8 concerns the responsibility of a State or international organization for the breach of an obligation arising under a treaty or a part of a treaty. The Drafting Committee made no substantive changes to the formulation adopted on first reading, which had been generally supported by governments and in the Commission. It only modified “provisionally applied” to “applied to provisionally” in order to align the text with draft guidelines 3 and 6.

The first reading version of the title of draft guideline 8, namely “Responsibility for breach”, was retained.

## **Draft guideline 9**

Mr. Chairperson,

Draft guideline 9, which is composed of four paragraphs, deals with the termination of provisional application. This provision has undergone significant changes on second reading. The Drafting Committee added two new paragraphs and deleted the paragraph 3 of first reading version. I will explain each paragraph in turn.

### *Paragraph 1*

Paragraph 1 states that “[t]he provisional application of a treaty or a part of a treaty terminates with the entry into force of that treaty in the relations between the States or international organizations concerned.” This formulation is an extrapolation of the phrase “pending its entry into force”, found in article 25, paragraph 1, of the Vienna Convention on the Law of Treaties. As such, it enjoyed broad support in the Commission. The Drafting Committee did not modify the formulation of the paragraph as adopted on first reading.

### *Paragraphs 2 and 3*

Mr. Chairperson,

I would like to explain paragraphs 2 and 3 of draft guideline 9 jointly because they developed out of a proposal, made by the Special Rapporteur in his sixth report, to replace the phrase “of its intention not to become a party to the treaty”, as adopted on first reading, with the broader reference to “irrespective of the reason for such termination”. This proposal was motivated by the existence of practice of States or international organizations that had terminated the provisional application of a treaty for reasons other than the intention not to become a party to the treaty. Nonetheless, the Drafting Committee had concerns about deleting the reference to the intention not to become a party, which was considered important for the stability of treaty relations (and because it was reflected in article 25, paragraph 2, of the Vienna Convention on the Law of

Treaties). In order to retain a reference to “intention” in the draft guideline, the Drafting Committee discussed a proposal to replace the phrase “Unless the treaty otherwise provides or it is otherwise agreed” with “Unless a different intention appears”, based on articles 28 and 29 of the Vienna Convention. However, the Drafting Committee considered that both proposals would diverge too significantly from the text of article 25, paragraph 2, of the Vienna Convention and did not adopt the proposed changes.

Furthermore, the Drafting Committee acknowledged the importance of relevant practice by States and international organizations in terminating provisional application while still retaining the intention to become a party to the treaty. To reflect this practice in paragraph 2, the Drafting Committee considered alternative formulations to the Special Rapporteur’s proposal, such as adding “or otherwise” and “for any other reason” after “of its intention not to become a party to the treaty”. Moreover, it was suggested that the provision provide that a State or international organization has a general obligation to notify the other States or international organizations that apply a treaty provisionally of the termination of provisional application “including” or “which may include” “of its intention not to become a party to the treaty”. However, the Drafting Committee was concerned that such specifications would depart too much from the formulation of article 25, paragraph 2, of the Vienna Convention. It was also noted that a general obligation to notify the termination of provisional application would limit the flexibility of provisional application.

To maintain the flexibility inherent in article 25, paragraph 2, of the Vienna Convention while recognizing other reasons for the termination of provisional application, the Drafting Committee took a two-pronged approach. First, it decided to largely retain paragraph 2 of draft guideline 9 on first reading. While the first reading text followed the wording of the Vienna Convention almost *verbatim*, the second reading version refers to States and international organizations “concerned” instead of “between which the treaty or a part of a treaty is being applied provisionally”. As explained above, the phrase “States and international organizations concerned” is first used in draft guideline 2 where it replaces “negotiating States” in the original formulation of article 25, paragraph 1 (b). In the context of draft guideline 9, the reference to “States and international organizations concerned” includes the States and international organizations “between which a treaty or part of a treaty is being provisionally applied”. Considering specifically multilateral treaties, the Drafting Committee decided to broaden this original wording in article

25, paragraph 2, of the Vienna Convention to all States and international organizations that could be concerned by the termination of provisional application of a treaty through a notification that a State or international organization does not intend to become a party to the treaty anymore.

Next, the Drafting Committee adopted a new paragraph 3, based on a revised proposal by Special Rapporteur, dealing with other grounds of termination. The beginning of paragraph 3, “Unless the treaty otherwise provides or it is otherwise agreed”, mirrors paragraph 2. The verb “may invoke” while giving the State or international organizations the option of invoking grounds for the termination of provisional application other than the intention not to become a party to the treaty, conveys the need to justify this decision. If this is the case, the State or international organization would be required (“shall”) to notify the other States or international organizations concerned. The phrase “other States or international organization concerned” has the same meaning as in paragraph 2.

The Drafting Committee also considered a proposal by the Special Rapporteur to insert “within a reasonable period” as a requirement for the notification of the termination of provisional application, so as to ensure greater legal certainty. He did so following a suggestion made in the plenary, which had been inspired by article 56, paragraph 2, of the Vienna Convention. While article 56 of the Vienna Convention stipulates a period of “twelve months’ notice of its intention to denounce or withdraw from a treaty under paragraph 1”, and by article 29 of the Vienna Convention on State Succession in respect of Treaties, the Special Rapporteur suggested the phrase “within a reasonable period”, so as to allow for flexibility depending on the circumstances of the provisional application of a treaty. After discussing the addition of “as appropriate” after “within a reasonable period”, the Drafting Committee concluded that it was not feasible to stipulate a general temporal notification requirement for different kinds of provisionally applied treaties. Instead, the commentaries will explain that the termination of the provisional application of some treaties (e.g. treaties that established institutional arrangements) might warrant sufficient advance notice, but that in other situations an immediate termination of provisional application was possible, although not desirable.

#### *Paragraph 4*

Mr. Chairperson,

The Drafting Committee further added a new paragraph 4 to draft guideline 9, based on the proposal by the Special Rapporteur in his sixth report, confirming that, in principle, the termination of the provisional application of a treaty would not affect any right, obligation or legal situation created through the execution of provisional application prior to its termination. The Drafting Committee recognized the importance of adding this paragraph, which was confirmed by the comments and observations received by governments and international organizations and the support expressed in the plenary. It only made minor adjustments to the Special's Rapporteur's proposal to further align it with the text of article 70, paragraph 1(b) of the Vienna Convention. In particular, the phrase "that may arise from" was replaced by "created through the execution of" such provisional application.

Mr. Chairperson,

Before turning to the title of draft guideline 9, I would like to note that the Drafting Committee decided to delete paragraph 3 of the draft guideline on first reading. Although the paragraph contained a "without prejudice" clause, the Drafting Committee was concerned that the paragraph referred to Part V, section 5, of the Vienna Convention on the Law of Treaties outside the more general context of Part V of the Vienna Convention, including with regard to issues such as peremptory norms of general international law (*jus cogens*). Considering the adoption of the new paragraph 3, the Drafting Committee was of the view that it was best to avoid the impression that the termination of provisional application had to follow all the procedural steps stipulated in the Vienna Convention for treaties that were already in force.

The title of draft guideline 9 is "Termination". In view of the deletion of the first reading version of paragraph 3, the Drafting Committee omitted "and suspension". It also deleted "of provisional application" to further shorten the title.

### **Draft guideline 10**

Mr. Chairperson,

I will now turn to draft guideline 10. The text of the draft guideline remained unchanged due to the general support expressed in the Commission.

The title of draft guideline 10 is “Internal law of States, rules of international organizations and observance of provisionally applied treaties”. The Drafting Committee considered simplifying the title by deleting “and observance of provisionally applied treaties”. The reference was kept because the following draft guidelines also concern the internal law of States and rules of international organizations. The Drafting Committee only deleted the “and” between “Internal law of States” and “rules of international organizations” and replaced it with a comma.

### **Draft guideline 11**

Mr. Chairperson,

Draft guideline 11 concerns “Provisions of internal law of States and rules of international organizations regarding competence to agree on the provisional application of treaties”. The Drafting Committee did not make any changes to the first reading version of the text and title of the draft guideline.

### **Draft guideline 12**

Mr. Chairperson,

Draft guideline 12 deals with limitations deriving from internal law of States or rules of international organizations when the States and international organizations agree to provisionally apply a treaty. Based on a proposal by the Special Rapporteur, the Drafting Committee changed “a State or an international organization” to the plural “States or international organizations”



because an agreement presupposes at least two parties. The references to the “internal law of the State” and the “rules of the organization” in the latter part of the draft guideline were equally adjusted to the plural to read “internal law of States” and “rules of international organizations”.

The title of draft guideline 12 is “Agreement to provisional application with limitations deriving from internal law of States or rules of international organizations”. The Drafting Committee considered a proposal for shortening the title to “Limitations on provisional application arising from internal law of States and rules of international organizations” but ultimately only changed the “and” in the first reading version to “or”.

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Mr. Chairperson,

This concludes my introduction of the second report of the Drafting Committee for this session. As I stated at the beginning, since this report is in the nature of an interim report, pending the finalization of the draft model clauses, at this stage it is my recommendation that the Commission only take note of the 12 draft guidelines adopted by the Drafting Committee. The opportunity to move to the actual adoption of the draft guidelines will come during the second part following my introduction of the next report on this topic.

I thank you for the kind attention.

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