

43. Spain

Statement made in the Sixth Committee, Sixty-seventh session (2012), 22nd meeting, 6 November 2012:¹⁰¹

[Reference to the practice of the European Union:]

Thus, among the wide variety of legal issues that arise, the use of provisional application that States and international organizations such as the European Union are doing in the agreements mixed of a commercial nature concluded with third States could be highlighted. Thus, through the mechanism of provisional application, within the framework of the European Union, it is possible to advance the application of that part of the treaty that falls under the exclusive competence of the Union.

Statement made in the Sixth Committee, Sixty-ninth session (2014), 26th meeting, 3 November 2014:¹⁰²

After all, once a treaty is being provisionally applied, States abide by the rule set out in article 27 of the Vienna Convention [on the Law of Treaties, 1969,] according to which they may not invoke the provisions of their internal law as justification for their failure to comply with their international obligations even those provisionally undertaken. And that is precisely the reason why the Bill on Treaties and other international agreements that the Spanish Senate approved last Wednesday and that will enter into force in a matter of weeks contains specific safeguards and limits regarding provisional application.

...

[Reference to the practice of the European Union:]

We would also like to draw attention to the importance of the practice of International Organizations on this issue, namely the European Union which has made extensive and quite interesting use of the provisional application of treaties as provided for in article 218.5 of the *Treaty on the Functioning of the European Union*. This is the case, for example, of some mixed agreements (between the Union and its member States, on the one hand, and a third party on the other hand) in which only the parts affecting matters within the Union's competence are provisionally applied.

Statement made in the Sixth Committee, Seventieth session (2015), 25th meeting, 11 November 2015:¹⁰³

[Reference to the practice of the European Union:]

Regarding the provisional application of treaties concluded by international organizations, it may be appropriate to take into account the practice, common within the European Union, of mixed agreements (that is, agreements concluded jointly by the European Union and its Member States, on the one hand, and one or more third States, on the other). Such practice restricts provisional application to provisions that fall within the scope of European Union competence and in which, therefore, the decision concerning provisional application is adopted by the European Union, without the Member States

¹⁰¹ Unofficial translation (from Spanish) by the United Nations Secretariat. Full text available at: https://www.un.org/en/ga/sixth/67/pdfs/statements/ilc/spain_3.pdf.

¹⁰² Unofficial translation (from Spanish) by the United Nations Secretariat. Full text available at: https://www.un.org/en/ga/sixth/69/pdfs/statements/ilc/spain_3.pdf.

¹⁰³ Unofficial translation (from Spanish) by the delegation of Spain. Full text available at: https://www.un.org/en/ga/sixth/70/pdfs/statements/ilc/spain_3e.pdf.

qua talis having to intervene (beyond their presence as members in the Council of the European Union, a body to which Article 218.5 of the *Treaty on the Functioning of the European Union* entrusts the decision on the application of the international agreements of the European Union).