



CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

Check Against Delivery

68th Session of the
General Assembly

Agenda Item 81

**Report of the ILC:
Reservations to Treaties**

Statement by

Mr. Petr Válek

Director of International Law Department,
Ministry of Foreign Affairs of the Czech Republic

New York, November 1, 2013

1109 – 1111 Madison Avenue, New York, NY 10028
tel.: 1-(646)-981-4000, fax: 1-(646)-981-4099, www.mfa.cz/un.newyork

Mr. Chairman,

First of all, the delegation of the Czech Republic wishes to express its appreciation to the Commission and namely to the Special Rapporteur, Professor Alain Pellet, for the results achieved over many years of work on a topic so demanding in terms of theoretical knowledge and so significant in terms of practical implications.

The Guide to Practice together with commentaries is an opus of enormous magnitude and practical importance and should help States properly assess relevant aspects of formulating reservations, interpretative declarations and reactions to them, as well as to evaluate the legal effects of these actions. The Czech Republic welcomes that the Special Rapporteur and the Commission based its work on thorough research and approached the subject with clear logic, and academic rigour, as well as with common, practical sense. The Guide to Practice thus comprehensively elucidates contentious aspects of one of the most neuralgic areas of the law of treaties. Appreciation should be addressed to most of the guidelines and the elaborated and concrete arguments used in the commentaries.

On the other hand, it is clear that certain minor aspects of a work of such magnitude will need some “calibration” by subsequent practice and commentaries: by way of example, the Czech Republic would appreciate some clarification of legal effects of late objections and objections to general or vague reservations, as well as clarification of the different ways in which the objections forming part of a reservation dialogue, including the requests for specification, reconsideration or withdrawal of a reservation, could be formulated. These issues are of concrete practical importance for my delegation, since the Czech Republic mainly objects to those reservations which it considers *prima facie* inconsistent with the object and purpose of the respective treaty, as well as to vague or general reservations, which are quite frequently formulated with regard to treaties on human rights and counter-terrorism.

At the same time, the Czech delegation considers as highly useful that the conclusions on the reservations dialogue of States in formulating reservations and objections were elaborated and included into the Guide to Practice on Reservations to Treaties. In this context, the Czech Republic is of the opinion that the reservations dialogue is a process which can significantly help in clearing legal positions and assessing the validity of the reservations. We especially welcome conclusion which guides the States to cooperate as closely as possible in order to exchange views on reservations in respect of which concerns have been raised and to coordinate the measures to be taken. The Czech Republic is ready to take an active part in such cooperation as it believes such endeavour can help to reach a balanced response to a reservation. At the same time, the Czech delegation is aware of the fact that the results of the assessment of the disputable reservation may always vary for each individual State.

The Czech delegation also regards as greatly beneficial that the guidelines, recommending that States should - to the extent possible - give reasons for formulating their reservations as well as for formulating their objections, were included in the final text, together with the comprehensive and balanced commentary to this issue. The Czech Republic further welcomes that the appropriate consideration was given to the objections formulated late, as these, despite their limited legal effects, might serve as an important element not only for the interpreting body when determining the validity of the reservation, but they can also serve as a significant means of the reservations dialogue, importance of which I have emphasized earlier.

The Czech delegation also values the Commission’s recommendations on the establishment of a mechanism of assistance concerning reservations to treaties. In addition,

we welcome the recommendation of the Commission that this mechanism could at the same time function as an advisory body for the States which would seek help with formulating the reservation. There is no doubt that the States could benefit from this concept and, therefore, we would welcome if this recommendation was elaborated in more detail as far as the functioning of this body is concerned, provided that there are no financial implications for Member States.

Thank you, Mr. Chairman.