

REPORT OF THE INTERNATIONAL LAW COMMISSION:
CLUSTER II: Reservations to treaties

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Mr Chair,

Since this is the first time New Zealand takes the floor during this debate on the International Law Commission, we would like to take this opportunity to thank the Chairman of the Commission, Mr Bernd Niehaus, and congratulate the members of the Commission for the high quality outcomes achieved over the past year.

Mr Chair

New Zealand will confine its comments at this stage of the ILC debate briefly to the topic of reservations to treaties.

New Zealand welcomes the consolidated Guide to Practice on Reservations to Treaties adopted at the sixty-third session of the International Law Commission in 2011.

The topic of reservations to treaties is one of the most difficult areas of treaty law which has great practical consequences. New Zealand wishes to thank the former Special Rapporteur, Professor Alain Pellet for his thorough and careful work in this area.

New Zealand particularly appreciates the approach the Commentaries take in relation to declarations on territorial scope at guideline 1.1.3.

New Zealand welcomes the interpretation set out that a declaration that excludes the application of a treaty as a whole to a particular territory is not a reservation in the sense of the Vienna Convention. Such a declaration does not concern the legal effect of a treaty. Rather it establishes a "different intention" as to the territorial application of the treaty, in accordance with Article 29 of the Vienna Convention. This interpretation articulates long established State practice as well as United Nations treaty practice. It is particularly relevant for New Zealand's dependent territory of Tokelau, where the circumstances are such that it may not be appropriate to apply a treaty to that territory.

Mr Chair, the guidelines and commentaries adopted by the Commission will no doubt serve as a useful tool for future practice, and New Zealand commends the efforts of the International Law Commission on this subject.

Thank you