



MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS

**STATEMENT BY
MS. FARHANI AHMAD TAJUDDIN, REPRESENTATIVE OF MALAYSIA**

ON AGENDA ITEM 81 ENTITLED

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Assembly. In this regard, Malaysia supports the recommendation for the General Assembly to take note of the Guide to Practice and ensure its widest possible dissemination, as stated in section C and paragraph 72 of the said Report. Malaysia submission to the General Assembly on the recommendations on mechanisms of assistance in relation to reservations, as set out in section D of the said report. In this regard, Malaysia seeks further understanding on the reservations assistance mechanism and the accompanying Annex, particularly on the purpose, role, function and the extent of the effect of the mechanism.

Mr. Chairman,

4. On the Guide to Practice, Malaysia wishes to make some observations which are outlined in the following paragraphs.

5. With respect to guidelines 1.1.1, 1.1.2 and 1.1.6., Malaysia is of the view that the definitions contained in these guidelines should not in any way prejudice the nature of the unilateral statements in question at the outset as reference must be made to the effects that these unilateral statements might intend to produce in order to determine their status. Further, in order to determine the status of such unilateral statements, Malaysia is of the opinion that States could possibly fall back on guidelines 1.3, 1.3.1 DQG ZKLFK GHDO ZLWK WKH 30HWKRG RI LPSOHPHQW UHVHUYDWLRQV DQG LQWHUSUHWDWLYH GHFODUDWLRQV D XQLODWHUDO VWDWHPHQW ZKHQ these definitions may be inappropriate as they tend to, from the very initial stage, restrict States by imposing that such unilateral statements are tantamount to reservations even though that may not have been the intention of those States.

6. Malaysia also notes that guideline 1.7.1 is restricted to two procedures which are QRW PHQWLRQHGOVHZKHUH DQG DUH DW WLPHV FKDUDWKH\ GR QRW E\ DQ\ PHDQV PHHW WKH GHILQLWLRQ FRQW

8. On guideline 2.3.4, Malaysia is of the view that any modification which would widen the scope of a reservation but does not touch upon the substance of the commitments of the State to a treaty should not be defeated merely upon a single objection. As such, Malaysia is of the view that there is a need to have a proper PHFKDQLVP WR DVVHV D ³ZLGHQHG UHVHUYDWLRQ´ DV LW an objection received. Therefore, Malaysia recommends t hat the permissibility test should be applied in determining such a reservation.

Mr. Chairman,

9. With regard to guideline 2.6.2, Malaysia would like to record its understanding that although the right being vested on the objecting States to formulate an objection to a reservation is irrespective of the permissibility of the reservation, that right is not arbitrary. In this regard, Malaysia acknowledges that this guideline is to be read together with Part 3 of the Guide to Practice so as to serve as a check and balance with respect to the permissibility of the objections.

10. On guideline 3.2, Malaysia is of the view that a treaty monitoring body (TMB) should comprise independent experts and not representatives of governments or countries. These experts should only make legal findings. The rationale behind this is to enable the TMB to execute its powers without being politically influenced by the representatives of Governments or countries.

11. With regard to guideline 3.2.1, Malaysia is of the view that the spirit of this guideline does not allow for Masia make l

developmental gaps to implement their obligations under the treaty. However, if a State making a reservation is faced with opposition from inclusion as a contracting party due to the reservation it makes, th

20. Malaysia would like to reiterate its comments as regards paragraph 2 of guideline

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not be made part of the guidelines at this juncture. As such, Malaysia is of the view that the placement of guidelines 2.8.7, 2.8.8, 2.8.9, 2.8.10, 2.8.11 and 4.1.3 as well as all