



SLOVENIA

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STATEMENT

BY

Mr

**International Law Department
Ministry of Foreign Affairs of the Republic of Slovenia**

Agenda item 82

**Report of the International Law Commission on the work of its
seventieth session: Chapter: VII (Provisional application of treaties)**

73rd Session of the General Assembly
Sixth Committee

New York, 26 October 2018

Mr Chairperson,

It is my pleasure to address the Sixth Committee regarding the work of the International Law Commission on the Cluster 2 topic Provisional Application of Treaties.

Slovenia appreciates the work of the Special Rapporteur Juan Manuel Gómez-Robledo and the Commission as a whole on this topic, and the opportunity to submit comments to the draft Guide to Provisional Application of Treaties by 15 December 2019.

Mr Chairperson,

Since this is a topic of great practical interest to states and international organisations, the end result should be aimed at assisting states and international organisations in their treaty practice by providing comprehensive guidance both on the concept and practical aspects of provisional application. This year, we have been concentrating on the concept, because we believe that a solid understanding of the concept leads to better practice.

Mr Chairperson

The foregoing conceptual underpinning of provisional application as based on agreement is, for example, relevant for unilateral declarations. In this regard, we believe that in such a case the agreement to provisionally apply the treaty should also exist if agreement is the basis for consent to provisional application. However, that agreement does not necessarily need to be explicit. As we have already stated in our previous statements, the regulation of provisional application in the Vienna Convention on the Succession of States in regard to Treaties could be relevant in this regard. There, Articles 27 and 28 provide that a treaty shall apply provisionally between States if they expressly so agree, or if by reason of their conduct it is to be considered that they have so agreed. In our opinion, this would mean that an implied agreement exists. We see no reason why this would apply only in the case of the succession of treaties and therefore could not be possible in the case of Article 25 of the VCLT, especially since the *travaux* to that convention do state that provisional application in it is based on Article 25.

Slovenia wishes to reiterate the importance of the topic and expresses its support to the work of the Special Rapporteur and the Commission in this regard.

Thank you.