

UNITED STATES MISSION TO THE UNITED NATIONS

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Thank you, Madam Chair.

The United States remains strongly supportive of the International Law Commission, as it flexibly and effectively conducted its seventh second session in a new, hybrid fashion due to the COVID-

Provisional Application of Treaties

7 XUQLQJ WR WKH VXEVDQFH RI WKLV \HDU¶V ,/& UHSR completion of the Guide to Provisional Application of Treaties. We express our appreciation to the Special Rapporteur, Ambassador Manuel Gómez Robledo, and other members of the Commission, for their significant contributions to the development of this topic. Moreover, we are appreciative of the consideration given to U.S. comments on prior iterations of the Guide and WKH & R P Efforts to address those concerns.

The United States is generally supportive of the Guide, whose purpose, as described in * XLGHOLQH LV WR SURYLGH DVVLVWDQFH WR 6WDWHV L

:LWK UHVSHFW WR *XLGHOLQH ZH DSSUHFLDWH WKH
 concerns regarding the potential for confusion arising from statements related to the use of
 means other than a treaty to establish an agreement to apply a treaty on a provisional basis.
 this regard, the guideline previously singled out two possibilities specific mention:
 ³UHVROXWLRQV DGRSWHG E\ DQ LQWHUQDWLRQDO RUJDQL
 a declaration by a State or an international organization that is accepted by the other States or
 international organizations concerned. :H ZHUH SDUWLFXODUO\ FRQFHUQH
 appeared to place undue consideration on the time at which an agreement is reached or the
 adoption of a resolution rather than on whether all States and international organizations
 assuming rights and obligations to provisionally apply the treaty have agreed to do so.
 Resolutions adopted by an international conference, or in other similar fora, that do not reflect
 the consent of all States assuming rights and obligations pursuant to provisional applicat
 such as those adopted without the participation of or without the consent of all relevant States
 would not establish a valid agreement for provisional application in respect of those States.
 revised commentary clearly establishes that StatHV RU LQWHUQDWLRQDO RUJDQL
 PXVW FRQVHFW WR SURYLVLRQDO DSSOLFDFWLRQ

With respect, however, to declarations by a State or an international organization that are
 accepted by other States or concerned international organizations, ~~what is~~ previous
 observations that the commentary to the guideline has identified little support in state practice for

current composition, the ILC has just four women out of 34 members. Prior to those four, only three women had ever served on the ILC.

There is an opportunity this year to move the ILC in the right direction, so that its membership comes a little closer to reflecting the global community. There are eight women candidates, Professor Evelyn Aswad,