

AG/RES. 888 (XVII-O/87)

**STANDARDS ON RESERVATIONS TO INTER-AMERICAN MULTILATERAL TREATIES AND RULES FOR
THE GENERAL SECRETARIAT AS DEPOSITARY OF TREATIES**

(Resolution adopted at the tenth plenary session, held on November 14, 1987)

WHEREAS.

At its third regular session, the General Assembly approved resolution AG/RES. 102 (III-O/73), "Standards on Reservations to Inter-American Multilateral Treaties";

On the basis of the experience acquired since the aforementioned resolution went into force, certain amendments should be introduced with a view to improving those standards;

The Inter-American Juridical Committee has submitted draft amendments to those standards, drawing upon the Vienna Convention on the Law of Treaties and the terms employed therein;

The Inter-American Juridical Committee has also submitted draft amendments to the Standards for the General Secretariat as depositary of inter-American multilateral treaties, approved by the General Assembly [AG/RES. 102 (III-O/73)]; and

The Permanent Council has examined and reviewed both drafts and has submitted a report on the matter to the General Assembly (AG/doc.2146/87),

THE GENERAL ASSEMBLY

RESOLVES:

1. To approve the following:

STANDARDS ON RESERVATIONS TO INTER-AMERICAN MULTILATERAL TREATIES

Article I

Formulation of reservations

A State may, when signing, ratifying, accepting, approving, or acceding to a treaty, formulate a reservation unless:

- a) the reservation is prohibited by the treaty;
- b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
- c) in cases not falling under subparagraphs a) and b), the reservation is incompatible with the object and purpose of the treaty.

Article II

Acceptance of and objection to reservations

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.
2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.
3. When a treaty is a constituent instrument of an inter-American specialized organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.
4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:
 - a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
 - b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;
 - c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.
5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered

to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article III

Legal effects of reservations and of objections to reservations

1. A reservation established with regard to another party in accordance with articles I-, II, and V:
 - a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
 - b) modifies those provisions to the same extent for that other party in its relations with the reserving State.
2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.
3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article IV

Withdrawal of reservations and of objections to reservations

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
3. Unless the treaty otherwise provides, or it is otherwise agreed:
 - a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;
 - b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article V

Procedure regarding reservations

1. A reservation, an express acceptance of a reservation, and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the Treaty.
2. If formulated when signing a treaty subject to ratification, acceptance, or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.
4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

Article VI

The provisions of a treaty regulating reservations, in any cases that arise necessarily before the entry into force of the treaty concerned, apply from the time of the adoption of its text.

2. To approve the following:

RULES FOR THE GENERAL SECRETARIAT AS DEPOSITARY OF TREATIES

Article I

Unless otherwise provided in the treaty or agreed by the contracting States, the functions of the General Secretariat of the OAS as depositary of inter-American treaties and agreements pursuant to Article 118.f of the Charter of the OAS shall be to:

- a) keep custody of the original text of the treaty and of any full powers delivered to the depositary;
- b) prepare certified copies of the original text and prepare any further text of the treaty in such additional languages as may be required by the treaty and transmit them to the parties thereto, to the member States of the Organization, and to nonmember States that have signed or acceded to the treaty, or express an intention to do so;

- c) receive any signatures to the treaty and receive and keep custody of any instruments, notifications, and communications relating to it;
- d) examine whether the signature or any instrument, notification, or communication relating to the treaty is in due and proper form and, if need be, bring the matter to the attention of the State in question;
- e) inform the parties, the member States of the Organization, and the States entitled to become parties of acts, notifications, and communications relating to the treaty;
- f) inform the member States of the Organization and the States entitled to become parties to the treaty when the number of signatures or -of instruments of ratification, acceptance, approval, or accession required for the entry into force of the treaty has been received or deposited;
- g) register the treaty with the Secretariat of the United Nations;
- h) perform the functions specified in the respective treaty;
- i) perform its functions as depositary of documents received from States that contain reservations or objections to said reservations, without expressing its opinion as to the legal effects of the instruments, and communicate their texts to all the States concerned, allowing the latter to infer the legal consequences of those documents.

Article II

In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the Organization or of the Inter-American Specialized Organization concerned.