

The Court, on the other hand, had given its advisory opinion on the basis of its interpretation of the existing laws. In brief, the Commission was of the opinion that the criterion of the compatibility of a reservation with the object and purpose of a multilateral convention was not suitable for application to multilateral conventions in general. The Commission suggested that organs of the United Nations, Specialized Agencies and states should, when preparing multilateral conventions, consider the insertion of provisions relating to the admissibility, or otherwise, of reservations and to the effect to be given to them. In the absence of contrary provisions in any multilateral convention, the Commission suggested a set of rules which might be followed. These were based on the universal concept that reservations are not acceptable unless agreed to by all contracting parties to a convention.

At the sixth session of the General Assembly, the Soviet bloc insisted on the sovereign right of states to become parties to conventions and to make reservations at will. Most Latin American countries favoured a system adopted previously by the Organization of American States which facilitated the making of reservations but which also prescribed that the convention would not come into force between a reserving state and an objecting state. This practice tended to split a multilateral convention into a series of bilateral agreements. Most European states and Commonwealth countries supported the recommendation of the International Law Commission as suitable for general application to most multilateral conventions. When it became clear that there would not be unanimous agreement, the Canadian Representative suggested an alternative set of rules which would have permitted acceptance of reservations by a three-fourths majority of contracting states. However, a compromise still proved impossible. As a result the Assembly made a series of recommendations. The first was that organs of the United Nations, Specialized Agencies and states should, when preparing multilateral conventions, consider the insertion of provisions relating to the admissibility or otherwise of reservations and to the effect of objections to reservations. The second recommendation was that states should be guided, in regard to the Genocide Convention, by the majority advisory opinion of the International Court referred to above, and that the Secretary-General should also make his practice conform to the Court's opinion. As regards future conventions concluded under the auspices of the United Nations, the Secretary-General was requested to continue to act as the depositary of documents containing reservations or objections without passing upon their legal effect. The Secretary-General will communicate the text of such documents to all states concerned, leaving it to each state to draw legal consequences from such communications. Thus the General Assembly did not make a specific recommendation on the future practice to be followed and consequently the problem of determining the precise legal position resulting from reservations and objections to them is likely to arise again in the future whenever the states which participate in the drafting of a convention have failed to include in the text stipulations concerning reservations.