## Contents

Fo	rewora	! by C	Christii	an Tomuschat	V
Аc	knowl	edger	nents		ix
Ab	brevia	tions			XV
Tal	ble of C	Cases			xvii
In	trodu	ction	L		1
	I	The	e Presi	umed Rareness of Promises	4
	II	ΑI	Legal I	Framework with Many Open Questions:	
		ΑF	irst L	ook	12
	III	The	e Need	d for a Clear Assessment of the Applicable Law	14
	IV	Ap	proac	hing the Topic	17
1	Del	imiti	ng th	e Subject: Promise as a Unilateral Act	18
	I	Dra	awing	from the Definition of Unilateral Acts	18
	II			ishing Promises from Other Classes of Unilateral	
		Act	ts		23
		A	Prom	nise	28
		В	Reco	gnition	29
		C	Prote		33
		D	Waiv	ver/Renunciation	34
		E	A No	ote on Notification	36
	III	AN	<b>Manife</b>	estation of Will to Create a Legal Obligation	38
	IV	Un	ilatera	ıl	40
		A	Colle	ective State Action	41
			(i)	Treaties Providing for Rights for Third States	45
			(ii)	Joint Declarations Outside Treaties	49
			(iii)	Concluding Remarks on Joint State Action	54
		В	The '	Autonomy' Debate	55
			(i)	Independence of Another Unilateral Act?	59
			(ii)	Independence of Another Multilateral or	
				Bilateral Act?	62
			(iii)	It's Really All about Lex Specialis	67
				(a) Acts Governed by the Law of Treaties	68
				(b) Declarations Made Pursuant to ICJ Statute,	
				Article 36(2)	69

	V	(d) A Brief Note on Other Acts Usually Excluded	75 77 78
	V	Promises of States Only	10
2	A Hi		80
	I	Important Cases and State Practice	81
		B Certain German Interests in Upper Polish Silesia Case C Free Zones Case D Declarations Concerning the Protection of Minorities E Legal Status of Eastern Greenland Case F Assurances Leading up to the Second World War G Austria's Permanent Neutrality	83 85 87 88 93 01 04
		071	υο 14
		·	1 <del>1</del>
		(ii) Analysis and Critical Assessment 12	17 23 32
		K Swiss Declaration in Relation to Security Council	38
		<ul> <li>Declarations on Torture and Other Inhumane Treatment 14</li> <li>M British Pledge on the 'Five Techniques' before the</li> </ul>	40
			41
		and the second of the second o	45
			47
		Constitutional Court  Q Military and Paramilitary Activities in and against	48
		O Company of the Comp	51
			55
		,	56 61
			66
			69
		~ 8	72
	II	Concluding Remarks on the History of Promises 17	74

			Contents	X111
3	The	Law on Promises		176
	I	Promises and the Sources of International	Law	176
	II	The ILC's Guiding Principles		183
	III	Legal Basis for the Bindingness of Unilate	ral Promises	194
		A Presumed Consent		196
		B State Sovereignty and Intent		198
		C Good Faith and Presumed Reliance		201
	IV	On the Intention to be Legally Bound		207
		A The State's Manifestation of Will		208
		B Ascertaining a Legal Intent to be Bour	nd	211
		(i) Restrictive Interpretation		212
		(ii) Interpreting a Declaration's Text		214
		(iii) 'Clear and Specific' Wording		218 222
		<ul><li>(iv) Supporting Circumstances</li><li>(v) Concluding Remarks on Interpretation</li></ul>	etation	227
		C Distinguishing Promises and Offers	tution	228
	V	Further Requirements		234
	•	A Competent Representative		234
		B No 'Defective' Will		237
		C 'Publicity'		239
		D A Lawful (and Possible?) Object		243
		E Registration?		246
		F Impact of the Addressee's Reaction		247
		G Summarising the Requirements for a l	Legally Binding	250
	* **	Promise		250
	VI	The Revocability of Promises		251
		A Necessary Limitations	(3.6 PH 11.1.7	251
		B Between the Vienna Convention and a	a 'More Flexible'	252
		Approach C Guiding Principle 10: Providing an Ar	newor (Only) for	253
		'Specific Circumstances'	iswer (Omy) for	258
		D Specific Circumstances Aside: Determ	ining a	
		'Ground Rule' on Revocation	O	263
		(i) Towards a 'More Flexible' Appro	oach	263
		(ii) Reasonable Notice Requirement		267
		E Consolidating the Approach: A Groun	nd Rule from	
		which to Deviate in Specific Circumst	ances	273
		F Concluding Remarks on the Revocabi	lity of Promises	275
	VII	Modifying Promises		276

## xiv Contents

	WIII	Dro	omises and Estoppel	277
	V 111	A	Estoppel	277
		В	Promises and Estoppel: Distinct but Interacting Legal Principles	
			<ul> <li>(i) Two Distinct Legal Principles</li> <li>(ii) Promises Triggering Estoppel</li> <li>(iii) 'Non-Promises' Triggering Estoppel?</li> <li>(iv) Recapitulating Remarks on the Interplay of Promise and Estoppel</li> </ul>	283 286 290 294
	IX	Su	mmarising the Legal Framework	294
4	Lool	king	g Ahead: A 'Promising' Future?	299
	I II	Straitjacket vs Empowering Rule Unilateral Promises and Bilateral Commitments		300 307
		A	Why Allow for Legally Binding Promises at the International Level?	307
		В	Circumventing or Complementing Treaties?	310
Co	nclud	ing	Remarks	312
	nex I nex II			314 321
	Bibliography Index			323 333