

## SWEDEN

CAT

### **OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS**

*(Ed. note: for the text targeted by the following objections, see the Reservations and Declarations of the State which is the subject of the objection)*

27 February 1996

With regard to the reservations, understandings and declarations made by the United States of America upon ratification:

"The Government of Sweden would like to refer to its objections to the reservations entered by the United States of America with regard to article 7 of the International Covenant on Civil and Political Rights. [For the text of the objections see under "Objections" in chapter IV.4]. The same reasons for objection apply to the now entered reservation with regard to article 16 reservation I (1) of [the Convention]. The Government of Sweden therefore objects to that reservation.

It is the view of the Government of Sweden that the understandings expressed by the United States of America do not relieve the United States of America as a party to the Convention from the responsibility to fulfil the obligations undertaken therein."

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14 December 1999

With regard to the declaration to article 14 (1) made by Bangladesh upon accession:

"In this context the Government of Sweden would like to recall, that under well-established international treaty law, the name assigned to a statement whereby the legal effect of certain provisions of a treaty is excluded or modified, does not determine its status as a reservation to the treaty. Thus, the Government of Sweden considers that the declaration made by the Government of Bangladesh, in the absence of further clarification, in substance constitutes a reservation to the Convention.

The Government of Sweden notes that the said declaration imply that the said article of the Convention is being made subject to a general reservation referring to the contents of existing laws and regulations in the country.

The Government of Sweden is of the view that this declaration raises doubts as to the commitment of Bangladesh to the object and purpose of the Convention and would recall that,

according to well-established international law, a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are respected, as to their object and purpose, by all parties and that States are prepared to undertake any legislative changes necessary to comply with their obligations under these treaties.

The Government of Sweden therefore objects to the aforesaid declaration made by the Government of Bangladesh to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection does not preclude the entry into force in its entirety of the Convention between Bangladesh and Sweden. The Convention will thus become operative between the two States without Bangladesh benefitting from the declaration".

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27 April 2000

With regard to the reservations made by the Qatar upon accession:

"The Government of Sweden has examined the reservations made by the Government of Qatar at the time of its accession to the [Convention], as to the competence of the committee and to any interpretation of the provisions of the Convention that is incompatible with the precepts of Islamic laws and the Islamic religion.

The Government of Sweden is of the view that as regards the latter, this general reservation, which does not clearly specify the provisions of the Convention to which it applies and the extent of the derogation therefrom, raises doubts as to the commitment of Qatar to the object and purpose of the Convention.

It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

According to customary law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of the Convention shall not be permitted. The Government of Sweden therefore objects to the aforesaid general reservation made by the Government of Qatar to the [Convention].

This shall not preclude the entry into force of the Convention between the State of Qatar and the Kingdom of Sweden, without Qatar benefitting from the said reservation".

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2 October 2001

With regard to the reservation made by the Botswana upon ratification:

"The Government of Sweden has examined the reservation made by Botswana upon ratification of the 1984 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, regarding article 1 of the Convention. The Government of Sweden notes that the said article of the Convention is being made subject to a general reservation referring to the contents of existing legislation in Botswana. Article 1.2 of the Convention states that the definition of torture in article 1.1 is "without prejudice to any international instrument or national legislation which does or may contain provisions of wider application".

The Government of Sweden is of the view that this reservation, in the absence of further clarification, raises doubts as to the commitment of Botswana to the object and purpose of the Convention. The government of Sweden would like to recall that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose, by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Sweden therefore objects to the aforesaid reservation made by the Government of Botswana to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between Botswana and Sweden. The Convention enters into force in its entirety between the two States, without Botswana benefitting from its reservation."

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29 September 2008

With regard to the interpretative declaration made by Thailand upon accession:

"The Government of Sweden recalls that the designation assigned to a statement does not determine whether or not it constitutes a reservation to a treaty. If the legal effect of certain provisions of a treaty is excluded or modified by an interpretative declaration, this in fact amounts to a reservation.

Since the application of a number of provisions of the Convention have been made subject to provisions of the Thai Penal Code it is unclear to what extent the Kingdom of Thailand considers

itself bound by the obligations of the treaty. This in turn raises doubts as to the commitment of the Kingdom of Thailand to the object and purpose of the Convention. This applies in particular to the declaration made under Article 1 of the Convention which contains a clear and generally recognized definition of the concept of torture.

The Government of Sweden therefore objects to the aforesaid reservation made by the Kingdom of Thailand to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between the Kingdom of Thailand and Sweden, without the Kingdom of Thailand benefiting from its reservation.”

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22 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Sweden is of the view that these reservations raise serious doubt as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention, as the reservations are likely to deprive the provisions of the Convention of their effect and are contrary to the object and purpose thereof.

The Government of Sweden would like to recall that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of a treaty shall not be permitted. It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose, by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Sweden therefore objects to the aforesaid reservations made by the Islamic Republic of Pakistan to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between Pakistan and Sweden. The Convention enters into force in its entirety between the two States, without Pakistan benefiting from these reservations.”

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#### Note

The German Democratic Republic had signed and ratified the Convention on 7 April 1986 and 9 September 1987, respectively, with the following reservations and declaration:

Reservations:

The German Democratic Republic declares in accordance with article 28, paragraph 1 of the Convention that it does not recognize the competence of the Committee provided for in article 20.

The German Democratic Republic declares in accordance with article 30, paragraph 2 of the Convention that it does not consider itself bound by paragraph 1 of this article.

Declaration:

The German Democratic Republic declares that it will bear its share only of those expenses in accordance with article 17, paragraph 7, and article 18, paragraph 5, of the Convention arising from activities under the competence of the Committee as recognized by the German Democratic Republic.

...

...[T]he Secretary-General has received from the following States, objections to the declaration made by the German Democratic Republic, on the dates indicated hereinafter:

...

**Sweden** (28 September 1988):

“According to article 2, paragraph 1 (d) of the Vienna Convention on the Law of Treaties a unilateral statement, whereby a State e.g. when ratifying a treaty purports to exclude the legal effect of certain provisions of the Treaty in their application, is regarded as a reservation. Thus, such unilateral statements are considered as reservations regardless of their name or phrase. The Government of Sweden has come to the conclusion that the declaration made by the German Democratic Republic is incompatible with the object and purpose of the Convention and therefore is invalid according to article 19 (c) of the Vienna Convention on the Law of Treaties. For this reason the Government of Sweden objects to this declaration.”

...

Subsequently, in a communication received on 13 September 1990, the Government of the German Democratic Republic notified the Secretary-General that it had decided to withdraw the reservations, made upon ratification, to articles 17 (7), 18 (5), 20 and 30 (1) of the Convention.

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*(Note 3, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)*

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Note

In a communication received on 7 September 1990, the Government of Chile notified the Secretary-General that it had decided to withdraw the declaration made by virtue of article 28 (1) upon signature and confirmed upon ratification by which the Government did not recognize the competence of the Committee against torture as defined by article 20 of the Convention. The

Government of Chile further decided to withdraw the following reservations, made upon ratification, to article 2 (3) and article 3, of the Convention:

(a) [To] Article 2, paragraph 3, in so far as it modifies the principle of "obedience upon reiteration" contained in Chilean domestic law. The Government of Chile will apply the provisions of that international norm to subordinate personnel governed by the Code of Military Justice, provided that the order patently intended to lead to perpetration of the acts referred to in article 1 is not insisted on by the superior officer after being challenged by his subordinate.

(b) Article 3, by reason of the discretionary and subjective nature of the terms in which it is drafted.

It will be recalled that the Secretary-General had received various objections to the said declarations from the following States on the dates indicated hereinafter:

...

**Sweden** (25 September 1989):

"... These reservations are incompatible with the object and purpose of the Convention and therefore are impermissible according to article 19 (c) of the Vienna Convention on the Law of Treaties. For this reason the Government of Sweden objects to these reservations. This objection does not have the effect of preventing the Convention from entering into force between Sweden and Chile, and the said reservations cannot alter or modify, in any respect, the obligations arising from the Convention."

...

Further, in a communication received on 3 September 1999, the Government of Chile withdrew the following reservation made upon ratification:

The Government of Chile will not consider itself bound by the provisions of article 30, paragraph 1 of the Convention.

*(Note 17, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)*

### **DECLARATIONS RE: ARTICLES 21 AND 22**

*(Unless otherwise indicated, the declarations were made upon ratification, accession or succession)*

"Sweden recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.

"Sweden recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention."