



**Instruments
internationaux relatifs
aux droits de l'homme**

Distr.
GÉNÉRALE

HRI/MC/2005/5
13 juin 2005

FRANÇAIS
Original: ANGLAIS

Dix-septième réunion des présidents des organes
créés en vertu d'instruments internationaux
relatifs aux droits de l'homme
Genève, 23-24 juin 2005

Quatrième réunion intercomités des organes
créés en vertu d'instruments internationaux
relatifs aux droits de l'homme
Genève, 20-22 juin 2005

**LA PRATIQUE DES ORGANES CRÉÉS EN VERTU D'INSTRUMENTS
INTERNATIONAUX RELATIFS AUX DROITS DE L'HOMME EN CE
QUI CONCERNE LES RÉSERVES À CES INSTRUMENTS**

Le présent rapport, établi par le secrétariat à la demande de la troisième réunion intercomités et de la seizième réunion des présidents des organes créés en vertu d'instruments internationaux relatifs aux droits de l'homme, traite de la pratique de ces organes s'agissant des réserves aux principaux instruments internationaux relatifs aux droits de l'homme. Les annexes au rapport sont communiquées en anglais uniquement.

TABLE DES MATIÈRES

	<u>Paragraphe</u> s	<u>Page</u>
I. INTRODUCTION	1 – 4	3
II. LES DISPOSITIONS DES INSTRUMENTS RELATIFS AUX DROITS DE L’HOMME.....	5	4
III. LA CONVENTION DE VIENNE SUR LE DROIT DES TRAITÉS..	6 – 7	5
IV. L’APPROCHE DES ORGANES CONVENTIONNELS.....	8 – 21	6
A. Le Comité pour l’élimination de la discrimination à l’égard des femmes	8 – 11	6
B. Le Comité des droits de l’enfant.....	12 – 15	8
C. Le Comité pour l’élimination de la discrimination raciale.....	16 – 17	9
D. Le Comité des droits de l’homme.....	18 – 19	10
E. Le Comité des droits économiques, sociaux et culturels.....	20 – 21	11
V. RÉSERVES ÉMISES DANS LE CADRE DE COMMUNICATIONS ÉMANANT DE PARTICULIERS.....	22 – 29	11
VI. AUTRES ORGANES DES NATIONS UNIES.....	30 – 44	15
VII. CONCLUSIONS	45 – 47	21
 Annexes		
Table of Contents of Annexes		23
Annex 1: The Practice of the Human Rights Treaty Bodies with Respect to Reservations – Concluding Observations/Comments and Miscellaneous Issues		24
Annex 2: Tables of reservations, objection and withdrawals.....		104

I. INTRODUCTION

1. La troisième réunion intercomités et la seizième réunion des présidents des organes créés en vertu d'instruments internationaux relatifs aux droits de l'homme, tenues à Genève les 21 et 22 juin et du 23 au 25 juin 2004 respectivement, ont examiné, entre autres, la question des réserves émises à l'égard des instruments internationaux relatifs aux droits de l'homme.
2. La réunion intercomités a jugé approprié que les organes conventionnels demandent le retrait des réserves aux instruments dont ils surveillent l'application. Elle a également examiné la question de savoir s'ils pouvaient décider de la recevabilité des réserves émises par les États et a estimé que, même si tous les organes conventionnels n'étaient pas confrontés à ce problème, il serait bon d'adopter une approche commune. Il a été proposé que le secrétariat établisse un rapport contenant un tableau indiquant toutes les réserves faites aux principaux instruments relatifs aux droits de l'homme et la nature des dispositions concernées, en vue de créer un groupe de travail composé d'un représentant de chaque comité, qui serait chargé d'examiner ce rapport et de rendre compte des résultats de cet examen à la prochaine réunion intercomités (A/59/254, par. 18 et annexe, point d'accord XVI). Le présent rapport a été établi comme suite à cette demande.
3. Le présent rapport décrit les dispositions contenues dans les instruments relatifs aux droits de l'homme en ce qui concerne les réserves, ainsi que les dispositions figurant dans la Convention de Vienne de 1969 sur le droit des traités. On y examine comment les organes conventionnels abordent la question des réserves et quelle position d'autres organes des Nations Unies adoptent en la matière. Dans l'annexe 1, on passe en revue les réactions de chacun des comités aux réserves, notamment telles qu'elles s'expriment dans les observations finales formulées à l'issue de l'examen des rapports des États parties. L'annexe 2 contient un tableau des réserves, déclarations (qu'elles soient interprétatives ou d'une autre nature) et interprétations émises à l'égard des sept principaux instruments relatifs aux droits de l'homme et de leurs protocoles facultatifs. Ce tableau mentionne également les objections des États parties aux réserves, les déclarations ou interprétations formulées ainsi que les retraits (complets ou partiels) de réserves. Les actes qualifiés tantôt de «réserve», tantôt de «déclaration» ou «d'interprétation» ont été classés dans la rubrique «réserves» lorsque l'État lui-même a estimé qu'ils constituaient une réserve, ou qu'ils ont été définis comme tels par le Bureau des affaires juridiques de l'ONU, qui assume les fonctions dévolues au Secrétaire général en sa qualité de dépositaire des instruments visés, ou lorsqu'il est clair que l'intention est de limiter la portée des obligations contraignantes qui incombent à l'État partie.
4. L'approche actuellement suivie en ce qui concerne les réserves aux instruments se fonde sur les dispositions desdits instruments, les dispositions de la Convention de Vienne, qui est largement considérée comme représentant des règles de droit coutumier ayant généralement force obligatoire, la jurisprudence des organes conventionnels ainsi que les avis du Bureau des affaires juridiques. Elle s'inspire également de la jurisprudence des tribunaux régionaux des droits de l'homme, en particulier la Cour européenne des droits de l'homme, ainsi que des travaux de la Commission du droit international (CDI), notamment les travaux de son Rapporteur spécial sur les réserves aux traités, M. Alain Pellet, qui présentera son dixième rapport sur la question à la CDI à sa cinquante-septième session en 2005. Cette approche a également été influencée par les travaux de la Sous-Commission de la promotion et de la protection des droits de l'homme.

II. LES DISPOSITIONS DES INSTRUMENTS RELATIFS AUX DROITS DE L'HOMME

5. En ce qui concerne les réserves, les instruments relatifs aux droits de l'homme contiennent des dispositions qui diffèrent selon les cas:

a) Les protocoles facultatifs se rapportant à la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes et à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, dans leurs articles 17 et 30 respectivement, n'admettent aucune réserve;

b) Le deuxième Protocole facultatif se rapportant au Pacte international relatif aux droits civils et politiques n'admet aucune réserve en dehors de celles visées au paragraphe 1 de l'article 2, qui mentionne une «réserve formulée lors de la ratification ou de l'adhésion et prévoyant l'application de la peine de mort en temps de guerre à la suite d'une condamnation pour un crime de caractère militaire, d'une gravité extrême, commis en temps de guerre». Aux termes des paragraphes 2 et 3 de l'article 2, l'État partie qui formule une telle réserve doit communiquer au Secrétaire général de l'Organisation des Nations Unies les dispositions pertinentes de sa législation interne qui s'appliquent en temps de guerre et lui notifier la proclamation ou la levée de l'état de guerre sur son territoire;

c) Les dispositions des articles 28 de la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, 51 de la Convention relative aux droits de l'enfant et 91 de la Convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille n'autorisent aucune réserve incompatible avec l'objet et le but de la Convention visée. La Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes (art. 29) et la Convention sur les travailleurs migrants (art. 91) spécifient également que les États parties peuvent émettre des réserves à la procédure de soumission des différends à la Cour internationale de Justice prévue dans lesdites conventions.

d) La Convention internationale sur l'élimination de toutes les formes de discrimination raciale est le seul instrument qui contienne des dispositions détaillées sur les réserves. Son article 20 énonce ce qui suit:

«1. Le Secrétaire général de l'Organisation des Nations Unies recevra et communiquera à tous les États qui sont ou qui peuvent devenir parties à la présente Convention le texte des réserves qui auront été faites au moment de la ratification ou de l'adhésion. Tout État qui élève des objections contre la réserve avisera le Secrétaire général, dans un délai de quatre-vingt-dix jours à compter de la date de ladite communication, qu'il n'accepte pas ladite réserve.

2. Aucune réserve incompatible avec l'objet et le but de la présente Convention ne sera autorisée non plus qu'aucune réserve qui aurait pour effet de paralyser le fonctionnement de l'un quelconque des organes créés par la Convention. Une réserve sera considérée comme rentrant dans les catégories définies ci-dessus si les deux tiers au moins des États parties à la Convention élèvent des objections.»

e) La Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants ne contient pas de disposition sur les réserves mais, aux termes de son article 28, un État peut, au moment où il signe ou ratifie ladite convention ou y adhère, déclarer qu'il ne reconnaît pas la compétence accordée au Comité en vertu de l'article 20 (procédure d'enquête). Comme dans le cas de la Convention sur les femmes et de la Convention sur les travailleurs migrants, le paragraphe 2 de l'article 30 spécifie qu'un État peut formuler une réserve à la procédure de soumission des différends à l'arbitrage de la Cour internationale de Justice prévue dans la Convention;

f) Le Pacte international relatif aux droits civils et politiques et son premier Protocole facultatif ainsi que le Pacte international relatif aux droits économiques, sociaux et culturels ne contiennent aucune disposition relative aux réserves.

III. LA CONVENTION DE VIENNE SUR LE DROIT DES TRAITÉS

6. Aux termes de l'alinéa *d* du paragraphe 1 de l'article 2 de la Convention de Vienne, l'expression «réserve» s'entend d'une «déclaration unilatérale, quel que soit son libellé ou sa désignation, faite par un État quand il signe, ratifie, accepte ou approuve un traité ou y adhère, par laquelle il vise à exclure ou à modifier l'effet juridique de certaines dispositions du traité dans leur application à cet État». Il est généralement entendu que, aux termes de la Convention de Vienne, un État qui émet une réserve doit le faire avant d'être lié par un traité, que ce soit par ratification, adhésion ou toute autre procédure. Le retrait, qu'il soit partiel ou complet, peut intervenir par la suite à tout moment en ce qui concerne l'une ou la totalité des réserves formulées. Les articles 19 à 21 de la Convention de Vienne instituent un régime régissant les réserves aux traités multilatéraux en vertu duquel une réserve ne doit pas être interdite par le traité ni incompatible avec l'objet et le but de ce traité. D'autres États parties peuvent faire objection à une réserve, auquel cas les dispositions sur lesquelles porte la réserve ne s'appliquent pas entre les deux États, dans la mesure prévue par l'objection, sauf disposition contraire. En conséquence, selon ce régime, il appartient aux États de décider de la validité des réserves.

7. Plusieurs organes créés en vertu d'instruments relatifs aux droits de l'homme se sont demandé si le régime institué par la Convention de Vienne était suffisamment à même de résoudre la question des réserves à ces instruments, en particulier du fait que les objections aux réserves visant ces instruments sont peu nombreuses. Certains organes conventionnels, en particulier le Comité des droits de l'homme, ont été amenés à se prononcer sur l'admissibilité des réserves dans le cadre des communications individuelles, où ils peuvent avoir à déterminer le champ d'application d'une obligation qui incombe aux États parties avant d'évaluer si ceux-ci se sont conformés à l'obligation en question. Les organes conventionnels ont également examiné la question de l'admissibilité des réserves dans le cadre de l'examen des rapports périodiques; d'une manière générale, ils encouragent les États parties à lever, ou du moins à envisager de lever, les réserves, même celles qui sont admissibles, en partant du principe que ces réserves amoindrissent la portée de la protection octroyée par les traités et qu'elles devraient donc être interprétées de façon restrictive et levées dans toute la mesure du possible.

IV. L'APPROCHE DES ORGANES CONVENTIONNELS

A. Le Comité pour l'élimination de la discrimination à l'égard des femmes

8. La plupart des organes conventionnels ont adopté une approche systématique pour traiter la question des réserves. À sa troisième session, le Comité a reçu communication d'un avis juridique établi par la Section des traités du Bureau des affaires juridiques sur les réserves émises à certains articles de la Convention et qui étaient incompatibles avec l'objet et le but de la Convention¹. Dans cet avis, il était indiqué que, à la différence de la Convention internationale sur l'élimination de toutes les formes de discrimination raciale, la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes ne contenant pas de dispositifs spécifiques, «il s'agit ici d'une question d'interprétation de la Convention» et que les procédures établies de règlement des différends (arbitrage ou soumission à la Cour internationale de Justice) deviendraient applicables en cas de différend quant à l'admissibilité d'une réserve. Il était également indiqué que le dépositaire n'avait pas qualité pour interpréter la Convention mais était tenu de communiquer le texte des réserves reçues. La conclusion formulée concernant le Comité était la suivante: «Il ne semble pas qu'il entre dans ses attributions de se prononcer sur l'incompatibilité des réserves, même si les réserves affectent à n'en pas douter l'application de la Convention et si le Comité peut être amené à présenter des observations à ce sujet dans ses rapports.».

9. Dans la Recommandation générale n° 4 qu'il a adoptée à sa sixième session en 1987, le Comité a exprimé «sa préoccupation devant le nombre important de réserves qui semblaient incompatibles avec l'objet de la Convention» et a suggéré «que tous les États parties intéressés les réexaminent en vue de les lever». Dans la Recommandation générale n° 20 qu'il a adoptée à sa onzième session en 1992, le Comité a recommandé «que, dans le cadre des préparatifs de la Conférence mondiale de 1993 sur les droits de l'homme, les États parties:

a) Soulèvent la question de la validité et des conséquences juridiques des réserves formulées à l'égard de la Convention, dans le cadre des réserves concernant les instruments relatifs aux droits de l'homme;

b) Réexaminent ces réserves en vue de renforcer l'application de tous les instruments relatifs aux droits de l'homme;

c) Envisagent d'établir, en ce qui concerne les réserves à l'égard de la Convention, une procédure analogue à celle prévue pour les autres instruments relatifs aux droits de l'homme.».

10. Dans la Recommandation générale n° 21 sur l'égalité dans le mariage et les rapports familiaux qu'il a adoptée à sa treizième session en 1994, le Comité s'est alarmé du grand nombre d'États parties qui avaient formulé des réserves à l'égard de certains paragraphes ou de l'ensemble de l'article 16, surtout lorsqu'ils les avait assorties d'une réserve à l'égard de l'article 2. Conformément aux articles 2, 3 et 24 de la Convention, le Comité a demandé que tous les États parties favorisent une évolution progressive pour en arriver à retirer leurs réserves

¹ CEDAW/C/L.1/Add.20 (figurant dans *The Work of CEDAW*, vol. I, 1982 à 1985, Publication des Nations Unies, annexe IV).

concernant notamment les articles 9, 15 et 16 de la Convention. Le Comité a également noté que dans certains États parties qui avaient ratifié la Convention ou y avaient adhéré sans faire de réserve, certaines lois, en particulier celles qui ont trait à la famille, ne sont pas vraiment conformes aux dispositions de la Convention et il a demandé à ces États parties d'examiner la situation de fait dans ce domaine et d'introduire les mesures nécessaires dans leur législation nationale si celle-ci contient toujours des dispositions discriminatoires envers les femmes. Dans la Recommandation générale n° 23 sur la vie politique et publique qu'il a adoptée à sa seizième session en 1997, le Comité a déclaré que les États parties devraient expliquer la raison et l'effet des réserves formulées à l'égard des articles 7 et 8 concernant la participation des femmes à la vie publique et politique, préciser si elles sont liées à des attitudes traditionnelles, coutumières ou stéréotypées concernant le rôle des femmes dans la société et indiquer les mesures qu'ils prennent pour modifier ces attitudes. Il demandait également aux États parties de vérifier régulièrement si le maintien desdites réserves était justifié et d'inclure dans leurs rapports un calendrier indiquant les dates auxquelles ils prévoyaient de les retirer.

11. À sa dix-neuvième session, en 1998, le Comité a adopté une déclaration sur les réserves à la Convention en tant que contribution à la célébration du cinquantenaire de la Déclaration universelle des droits de l'homme (A/53/38/Rev.1, deuxième partie, par. 1 et suiv.). Le Comité y indiquait notamment qu'il considérait que les articles 2 et 16 énonçaient des dispositions essentielles de la Convention. Bien que certains États parties eussent retiré leurs réserves à ces articles, il s'inquiétait du nombre et de la portée des réserves à ces deux articles ainsi que de leurs conséquences pour les femmes dans les États parties. Il examinait également le principe d'illicéité énoncé au paragraphe 2 de l'article 28 de la Convention, qui dispose qu'aucune réserve incompatible avec l'objet et le but de la Convention ne sera autorisée. Il évoquait en particulier les nombreuses réserves à l'article 2 qui, à son avis, entravaient sérieusement l'application de la Convention et empêchaient le Comité de faire un véritable travail de vérification dans ce domaine. Il notait également que, malgré les recommandations formulées dans la Déclaration et le Programme d'action de Vienne, rares étaient les réserves à l'article 2 qui avaient à ce jour été modifiées ou retirées par un État partie et il se référait à ses recommandations générales n° 20 et 21. En ce qui concerne les options dont disposent les États parties qui ont formulé des réserves, le Comité se référait à l'opinion du Rapporteur spécial chargé par la Commission du droit international de lui faire rapport sur le droit et la pratique concernant les réserves aux traités. Selon le Rapporteur spécial, un État qui a formulé une réserve peut maintenir sa réserve, la retirer, remplacer une réserve illicite par une réserve licite ou renoncer à être partie au traité. Le Comité mentionnait également l'utilité de la procédure de règlement des différends entre les États parties pour encourager les États à retirer ou modifier leurs réserves. Enfin, il mentionnait le rôle important qu'il avait à jouer pour ce qui était de poursuivre l'examen des réserves et, tout en convenant avec le Rapporteur spécial qu'il appartenait en premier lieu aux États parties de contrôler la licéité des réserves, il tenait cependant à attirer une nouvelle fois l'attention des États parties sur la vive préoccupation que lui inspiraient le nombre et la portée des réserves illicites. Conformément aux directives du Comité concernant la présentation des rapports, les États parties doivent expliquer toute réserve ou déclaration concernant la Convention et justifier son maintien; compte tenu de la déclaration du Comité au sujet des réserves, l'effet de toute réserve ou déclaration sur le plan de la législation et de la politique nationales doit être expliqué avec précision. Les États parties qui ont émis des réserves générales ne visant pas un article particulier ou qui visent les articles 2 ou 3 devraient présenter un rapport au sujet des effets et de l'interprétation de ces réserves et fournir des

renseignements au sujet de toute réserve ou déclaration qu'ils pourraient avoir introduite en ce qui concerne des obligations analogues dans d'autres traités relatifs aux droits de l'homme.

B. Le Comité des droits de l'enfant

12. À sa première session, le Comité des droits de l'enfant a demandé au secrétariat de lui fournir une note sur les réserves à la Convention². Dans cette note, soumise au Comité à sa deuxième session de 1992, il était indiqué que le droit international ne spécifiait pas quelles réserves devraient être considérées comme incompatibles avec l'objet et le but d'un instrument relatif aux droits de l'homme mais qu'il appartenait en premier chef aux autres États parties de déterminer si ces réserves étaient compatibles, ce qu'ils pourraient faire en formulant des objections aux réserves. Le secrétariat se référait également à un aide-mémoire du Secrétaire général de 1976, dans lequel celui-ci déclarait qu'en sa qualité de dépositaire des traités il n'avait pas compétence pour se prononcer sur les conséquences juridiques des réserves, ainsi qu'à l'avis juridique fourni au Comité pour l'élimination de la discrimination à l'égard des femmes à sa troisième session en 1984. Pendant l'examen de la question des réserves auquel il a procédé lors de sa deuxième session, le Comité des droits de l'enfant a estimé qu'il lui fallait avant tout préserver l'esprit de compréhension et de consensus émanant de la Convention et a souligné qu'il ne souhaitait pas considérer la question des réserves et déclarations comme un facteur de division qui serait contraire à cet esprit. Le Comité a néanmoins estimé qu'il importait de se pencher sur cette question lorsqu'il examinerait les rapports des États parties et qu'il devrait demander aux États parties de l'informer de la façon dont les réserves et déclarations qu'ils avaient formulées étaient reflétées dans la législation nationale et appliquées³.

13. Dans son Observation générale n° 5 (2003) concernant les mesures d'application générales de la Convention, le Comité s'est référé au paragraphe 2 de l'article 51 de la Convention ainsi qu'à l'article 2 de la Convention de Vienne et s'est dit profondément préoccupé par le fait que certains États avaient formulé des réserves qui allaient manifestement à l'encontre du paragraphe 2 de l'article 51 en déclarant, par exemple, que le respect de la Convention était subordonné à la Constitution de l'État ou à la législation en vigueur, y compris parfois au droit religieux. Il a noté que, dans certains cas, des États parties avaient officiellement émis des objections à des réserves de vaste portée de ce type formulées par d'autres États parties et s'est félicité de toute action susceptible de garantir le respect total de la Convention par tous les États parties.

14. Dans ses directives générales concernant les rapports périodiques, le Comité a demandé aux États, dans l'esprit de la Conférence mondiale sur les droits de l'homme qui avait encouragé les États à envisager d'examiner les réserves qu'ils auraient formulées en vue de les retirer⁴, d'indiquer si le gouvernement jugeait nécessaire de maintenir les réserves qu'il avait éventuellement faites ou s'il avait l'intention de les retirer⁵. Dans ses directives concernant les

² MCRC/92/8.

³ A/49/41, par. 529.

⁴ A/CONF.157/23, II, par.5 et 46.

⁵ CRC/C/58, par. 11.

rappports initiaux présentés en vertu des protocoles facultatifs, le Comité demande que les États parties indiquent s'ils ont l'intention de retirer des réserves qu'ils pourraient avoir formulées.

15. À l'issue du débat général qui a marqué la célébration du dixième anniversaire de la Convention, le Comité a approuvé des conclusions dans lesquelles il affirmait qu'il avait «un rôle décisif à jouer dans l'évaluation de la validité et de l'impact des réserves faites par les États parties» et qu'il continuerait à soulever systématiquement la question en leur présence. Le Comité continuerait «d'encourager l'examen des réserves par les États parties ainsi que leur retrait en vue d'assurer une application maximale de la Convention». Le Comité déclarait qu'il envisagerait la possibilité d'adopter une observation générale sur la question des réserves et qu'il aborderait avec les États parties la question de la compatibilité des réserves avec «l'objet et le but de la Convention», qu'il éclaircirait les situations où, faute de compatibilité suffisante, les réserves pourraient ne pas être valables et proposerait des mesures concrètes pour remédier à de telles situations. Le Comité encourageait «la fourniture d'une assistance technique aux États parties pour les aider dans les efforts qu'ils consacrent à l'examen des réserves en vue de leur retrait»⁶. Le Comité n'a pas encore élaboré d'observation générale sur les réserves mais, lors de l'examen des rapports présentés par les États parties, il s'est montré particulièrement critique à l'égard des réserves qui portent sur la totalité ou un grand nombre des dispositions de la Convention, semblent motivées par des considérations floues ou générales telles que les coutumes ou les valeurs de l'État partie, seraient susceptibles d'entraîner une discrimination fondée sur des motifs religieux et pourraient entraver l'application de principes fondamentaux tels que la non-discrimination, l'intérêt primordial de l'enfant ou les droits de la famille.

C. Le Comité pour l'élimination de la discrimination raciale

16. Dès 1976, le Comité a demandé un mémorandum juridique portant, entre autres, sur la question de savoir quel était l'effet juridique d'une décision unanime du Comité d'après laquelle une réserve était incompatible avec l'objet et le but de la Convention, alors que cette réserve aurait déjà été acceptée, et quel serait l'effet d'une telle décision du Comité compte tenu du paragraphe 2 de l'article 20 de la Convention. Dans ce mémorandum, il était indiqué que le Comité n'était pas un organe représentatif des États parties, qui disposaient seuls des pouvoirs généraux à l'égard de l'application de la Convention. Lorsque des États parties avaient accepté une réserve au terme de la procédure prévue par l'article 20, une décision – même unanime – du Comité suivant laquelle cette réserve ne serait pas acceptable ne pouvait avoir aucun effet juridique⁷. À sa dix-septième session, en avril 1978, le Comité a tenu un débat général sur les effets juridiques des réserves⁸. Les membres du Comité sont convenus que le Comité devait tenir compte des réserves émises, n'ayant pas autorité pour agir autrement. Une décision – même unanime – du Comité suivant laquelle une réserve ne serait pas acceptable ne pourrait avoir aucun effet juridique. En revanche, les déclarations n'avaient aucun effet juridique sur les obligations incombant à l'État déclarant parce que, s'il en était autrement, ces déclarations devraient être considérées comme des réserves.

⁶ CRC/C/90, par. 291.

⁷ Nations Unies, *Annuaire juridique 1976*, p. 227 et 228.

⁸ A/33/18, p. 105 et 106.

17. Dans son opinion préliminaire du 13 mars 2003 sur la question des réserves aux instruments relatifs aux droits de l'homme⁹, le Comité a déclaré que pendant la procédure de présentation des rapports, un organe créé en vertu d'un instrument relatif aux droits de l'homme pouvait adopter une position concernant la question de savoir si une réserve émise par un État était compatible avec l'objet et le but de cet instrument (par. 3) et pouvait recommander à l'État d'envisager de modifier sa réserve, de la retirer ou de prendre une autre mesure, et a noté que cette façon de procéder serait beaucoup plus bénéfique que d'ouvrir un débat juridique avec tous les États auteurs de réserves en soutenant que certaines de leurs réserves n'avaient aucun effet juridique, c'est-à-dire que, en dépit de la volonté qui était la leur lorsqu'ils avaient ratifié la Convention, ils étaient liés par le texte de la Convention dans son intégralité (par. 4).

D. Le Comité des droits de l'homme

18. L'approche suivie par le Comité des droits de l'homme en matière de réserves est essentiellement dictée par l'impact que ces réserves ont sur les communications présentées au titre du Protocole facultatif se rapportant au Pacte. À sa cinquante-deuxième session, en 1994, le Comité a adopté l'Observation générale n° 24 sur les questions touchant les réserves formulées au moment de la ratification du Pacte ou des Protocoles facultatifs y relatifs ou de l'adhésion à ces instruments, ou en rapport avec des déclarations formulées au titre de l'article 41 du Pacte. Dans cette observation, le Comité souligne qu'il lui incombe nécessairement de «déterminer si une réserve donnée est compatible avec l'objet et le but du Pacte» et qu'il est particulièrement bien placé pour s'acquitter de cette tâche (par. 18). Le Comité mentionne en outre un ensemble d'éléments auxquels il convient de se référer pour déterminer cette question, notamment les prescriptions non susceptibles de dérogation, les principes fondamentaux sous-jacents et le droit international coutumier.

19. L'Observation générale n° 24 a beaucoup retenu l'attention des États et a suscité des réactions critiques officielles de la part de la France¹⁰, du Royaume-Uni et des États-Unis d'Amérique¹¹. La question des réserves a été soulevée pendant l'examen du rapport des États-Unis d'Amérique; le Comité a pris note des préoccupations dont avait fait part à son Président par écrit la délégation américaine au sujet de cette observation générale. Dans le cadre de l'examen du rapport du Royaume-Uni, le Comité s'est félicité de la franchise avec laquelle la délégation avait reconnu les questions d'ordre juridique soulevées dans l'observation générale et à propos desquelles le Gouvernement britannique était en désaccord, ainsi que de la volonté de la délégation d'engager un dialogue au sujet de ces questions¹².

⁹ CERD/C/62/Misc.20/Rev.3.

¹⁰ A/51/40, par. 367 et annexe VI.

¹¹ A/50/40, par. 481 et annexe VI.

¹² A/50/40, par. 409.

E. Le Comité des droits économiques, sociaux et culturels

20. Lors d'une séance privée tenue par le Comité pendant sa huitième session, en 1993, le Président et plusieurs membres ont fait des observations sur les réserves. Le Président a constaté que les réserves ne posaient pas un problème majeur car elles étaient peu nombreuses et ne prêtaient généralement pas à controverse¹³. À sa dix-neuvième session, en 1998, pendant le débat sur le projet d'observation générale relative à l'application du Pacte au niveau national, la question s'est posée de savoir s'il était interdit aux États d'émettre des réserves motivées par le droit religieux national, en vertu du principe selon lequel le non-respect du droit international ne pouvait être justifié par des dispositions du droit interne. Le Président a estimé que des réserves globales ne seraient pas acceptées pour des raisons d'imprécision mais que des réserves spécifiques seraient probablement acceptables¹⁴. Ni l'observation générale adoptée ni aucune autre déclaration officielle ou directives du Comité ne traitent de la question des réserves.

21. À l'instar du Comité des droits économiques, sociaux et culturels, le Comité contre la torture n'a pas élaboré de position officielle sur les réserves mais a exprimé des préoccupations dans le cadre de l'examen des rapports des États parties et dans ses observations finales.

V. RÉSERVES ÉMISES DANS LE CADRE DE COMMUNICATIONS ÉMANANT DE PARTICULIERS

22. Les réserves ont une incidence dans le cadre des communications émanant de particuliers, puisqu'elles peuvent viser à contester la saisine de l'organe concerné ou à restreindre le champ de l'examen autorisé quant au fond. À ce jour, le Comité des droits de l'homme est le seul des quatre organes créés en vertu d'instruments relatifs aux droits de l'homme ayant compétence pour examiner des plaintes individuelles qui se soit prononcé sur l'effet des réserves dans ce cadre¹⁵, qu'il s'agisse de réserves portant sur des questions de procédure formulées à l'égard du Protocole facultatif se rapportant au Pacte ou de réserves portant sur des questions de fond émises à l'égard du Pacte proprement dit. En règle générale, le Comité a pour politique de limiter étroitement la portée des réserves, sans pour autant mettre fondamentalement en question leur admissibilité.

23. Lorsqu'il doit déterminer s'il a compétence pour examiner une plainte, c'est-à-dire au stade de la recevabilité, le Comité est souvent amené à étudier l'effet que des réserves concernant la procédure seraient susceptibles d'avoir sur une affaire donnée. Les réserves de ce type peuvent être classées en deux catégories: premièrement, les réserves qui copient le droit en vigueur, tel qu'il est énoncé soit dans le Protocole facultatif soit dans la jurisprudence du Comité et, deuxièmement, les réserves dont la portée va au-delà des précédentes. On peut citer comme

¹³ E/C.12/1993/SR.17.

¹⁴ E/C.12/1998/SR.51/Add.1, par. 1 à 8.

¹⁵ Dans l'affaire *Hagan c. Australie* (26/2002), dont était saisi le Comité pour l'élimination de la discrimination raciale, l'État partie a évoqué sa réserve à l'article 4 de la Convention comme moyen de défense contre la plainte formulée mais le Comité, dans son examen quant au fond, n'a pas mentionné cette question.

exemple des premières les réserves qui visent à nier la compétence du Comité aux motifs i) qu'une autre instance internationale d'enquête ou de règlement est saisie de la même affaire (Croatie, Fédération de Russie, France, Islande, Italie, Luxembourg, Malte, Roumanie, Slovénie, Sri Lanka, Suède), ii) que les événements qui font l'objet de la plainte sont antérieurs à l'entrée en vigueur du Protocole facultatif pour le pays visé (Allemagne, Chili, Croatie, El Salvador, Espagne, Fédération de Russie, France, Guatemala, Malte, Slovénie, Sri Lanka), ou iii) que les recours internes n'ont pas été tous épuisés (Fédération de Russie). Toutefois, comme ces critères sont déjà énoncés à l'alinéa *a* du paragraphe 2 de l'article 5 du Protocole facultatif ainsi que dans la jurisprudence du Comité, de telles réserves n'apportent pas de nouvelles restrictions à la compétence de cet organe. Il s'ensuit que les dérogations ou les limitations énoncées par le Comité lorsqu'il s'agit d'interpréter ces normes s'appliquent dans tous les cas, que la disposition visée se trouve dans le texte du Protocole facultatif, dans la jurisprudence du Comité ou dans une réserve qui les calque¹⁶. Si dans certaines de ces affaires on peut être amené à faire valoir que la portée de la réserve va au-delà de ce que prescrivent les textes (voir par exemple la réserve de l'Allemagne concernant la compétence *ratione temporis* ou la réserve de la Russie concernant les recours internes), aucune décision à ce jour n'a retenu de telles distinctions. Il s'ensuit que cette catégorie de «réserve» a été considérée comme non opposable et a donc été couramment appliquée par le Comité¹⁷.

24. La deuxième catégorie de réserves relatives à la procédure comprend les réserves qui restreignent la compétence du Comité au-delà des limites déjà définies: le plus souvent, il s'agit des réserves qui restreignent la compétence du Comité d'examiner des plaintes qui ont déjà été examinées par une autre instance internationale, que celle-ci soit ou non spécifiée (outre les plaintes en cours d'examen devant une autre instance) (Allemagne, Autriche, Croatie, Danemark, Espagne¹⁸, France, Irlande, Islande, Italie, Luxembourg, Malte, Norvège, Ouganda, Pologne, Roumanie, Slovénie, Sri Lanka, Suède). En pareil cas, le Comité a été soucieux de restreindre la portée potentielle d'une telle réserve et l'a fait globalement de trois façons¹⁹. Premièrement, l'autre instance doit être une procédure judiciaire ou quasi judiciaire, ce qui exclut des procédures telles que la procédure de la Commission des droits de l'homme au titre de la résolution 1503 du Conseil économique et social ou les plaintes adressées aux rapporteurs spéciaux de cette Commission. Deuxièmement, le Comité a exigé, pour que les réserves puissent prendre effet, que les faits ayant motivé la plainte devant les deux instances soient les mêmes, que la plainte soit identique et qu'elle ait été soumise par la même personne²⁰. En particulier,

¹⁶ Voir *Sarma c. Sri Lanka* (950/2000).

¹⁷ Voir par exemple *Paraga c. Croatie* (727/1996).

¹⁸ Le texte de la réserve émise par l'Espagne à l'égard du Protocole facultatif emploie le terme «soumise» mais dans *Pallach c. Espagne* (1074/2002), le Comité a interprété ce terme de façon plus étroite, retenant l'acception «examinée».

¹⁹ Les deux premières valent évidemment aussi pour l'examen des réserves décrites ci-dessus s'agissant de la soumission parallèle (et non consécutive) d'une même affaire à une autre instance internationale.

²⁰ Voir par exemple *Rogl c. Allemagne* (808/1998).

lorsque les dispositions applicables du Pacte ont une portée plus large que celle d'un autre instrument, il n'aura pas été établi qu'il s'agit d'une «plainte identique»²¹. Troisièmement, même si les deux instances ont été saisies de la «même affaire», le Comité a estimé que «l'examen» de cette affaire par l'autre instance signifie une décision (aussi sommaire soit-elle) sur le fond, de façon à rester compétent si cette autre instance a rejeté la plainte pour des raisons techniques ou de procédure²². Cependant, tout en adoptant la démarche restrictive décrite ici, le Comité respecte la finalité sous-jacente d'une réserve et évite des interprétations formalistes qui la videraient de son sens. Ainsi, le Comité a interprété la réserve de l'Autriche concernant les plaintes devant la Commission européenne des droits de l'homme comme s'appliquant également aux plaintes déposées devant l'organe qui lui a succédé, à savoir la Cour européenne et ce, bien que dans l'affaire visée le conseil ait invité le Comité à prendre le texte de la réserve à la lettre²³. Étant donné que de telles réserves ont introduit des restrictions fondées sur des considérations relatives à l'admissibilité déjà évoquées dans le Protocole facultatif et la jurisprudence, le Comité s'est contenté de les interpréter de façon restrictive et n'a pas procédé à une critique de fond de leur licéité.

25. Un autre exemple de réserves au Protocole facultatif qui portent sur la procédure et visent à limiter la compétence du Comité au-delà des restrictions énoncées dans le Protocole facultatif ou la jurisprudence sont les réserves tendant à exclure de la compétence du Comité une certaine catégorie d'affaires, par exemple celles qui concernent les prisonniers condamnés à mort. Dans *Kennedy c. Trinité-et-Tobago*²⁴, le Comité a estimé qu'une telle exclusion constituait une discrimination contraire aux principes fondamentaux du Pacte et de ses protocoles facultatifs et était donc illicite car contraire à l'objet et au but du Protocole facultatif. En conséquence, la réserve a été dissociée et la communication déclarée recevable. C'est la seule occasion, dans le cadre d'une plainte, où une réserve ait été considérée nulle et non avenue.

26. En de rares occasions, des communications adressées au Comité ont soulevé la question de l'effet d'une réserve émise à l'égard du Pacte. Par exemple, dans *Cabal et Pasini c. Australie*²⁵, les auteurs affirmaient, entre autres, qu'il y avait eu violation du paragraphe 2 de l'article 10, à propos duquel l'Australie avait émis une réserve en déclarant: «En ce qui concerne le paragraphe 2 a), le principe de la séparation est accepté en tant qu'objectif à réaliser progressivement.». Le Comité a accepté la réserve, rejetant l'argument selon lequel elle était incompatible avec l'objet et le but du Pacte. Il a également fait observer ce qui suit:

«La réserve formulée par l'État partie est spécifique et transparente, et ... son champ d'application est clair. Elle porte sur la séparation des prévenus et des condamnés et ne s'étend pas, comme le soutiennent les auteurs et comme ne le conteste pas l'État partie,

²¹ Voir par exemple *Karakurt c. Autriche* (965/2000).

²² Voir par exemple *Weiss c. Autriche* (1086/2002).

²³ *Wallman c. Autriche* (1002/2001).

²⁴ Affaire 845/1999.

²⁵ Affaire 1020/2001.

à l'élément *régime distinct* prévu au paragraphe 2 a) de l'article 10. S'il est vrai que 20 ans se sont écoulés depuis que l'État partie a formulé sa réserve, que l'État partie comptait atteindre progressivement son objectif, et que même s'il serait souhaitable que les États parties retirent leurs réserves le plus vite possible, le Pacte ne prévoit aucun délai pour le retrait des réserves. Le Comité note en outre les efforts déployés par l'État partie pour réaliser cet objectif, notamment la construction du centre de détention provisoire de Melbourne en 1989, qui était précisément censé servir à l'accueil des personnes en détention provisoire, et qu'il compte construire deux nouvelles prisons à Melbourne, dont un centre de détention provisoire, d'ici à la fin de 2004. Par conséquent, si l'on peut déplorer que l'État partie n'ait pas encore réalisé son objectif de séparer les prévenus des condamnés, comme le demande le paragraphe 2 a) de l'article 10, le Comité ne saurait considérer que la réserve en question est incompatible avec l'objet et le but du Pacte. Cette partie de la plainte est donc irrecevable en vertu de l'article 3 du Protocole facultatif.»

27. De même, s'agissant d'une série de communications individuelles émanant de membres de la minorité linguistique bretonne qui mettaient en cause la France en invoquant l'article 27, le Comité a systématiquement rejeté ces plaintes au motif que sa compétence était exclue en raison de la déclaration faite par la France lors de l'adhésion au Pacte, à savoir que: «Compte tenu de l'article 2 de la Constitution de la République française, le Gouvernement français déclare que l'article 27 n'a pas lieu de s'appliquer en ce qui concerne la République.»²⁶. Dans la première affaire, l'argumentation du Comité a été la suivante:

«En l'espèce, la déclaration faite par le Gouvernement français lors de son adhésion au Pacte est claire: elle vise à exclure l'application de l'article 27 à la France, ce qui est souligné dans le libellé par les mots "n'a pas lieu de s'appliquer". L'objet de la déclaration étant sans équivoque, elle doit être considérée comme excluant la compétence du Comité, malgré le terme employé pour la désigner.»

28. Dans deux affaires ultérieures, l'approche suivie par le Comité a été plus pragmatique. Tout en concédant qu'une réserve donnée avait pour effet d'exclure sa compétence, il a néanmoins évalué la plainte en question au regard d'un autre pacte, évitant ainsi une situation qui aurait abouti à empêcher tout examen de cette plainte quant au fond. Dans l'affaire *Maleki c. Italie*²⁷, l'État partie a invoqué sa réserve au paragraphe 3 d) de l'article 14 du Pacte à l'appui de sa position concernant les procès par contumace. Le Comité a estimé que les faits faisaient apparaître une violation du Pacte et a indiqué ce qui suit:

«9.2 L'argument de l'État partie consiste à dire que la déclaration qu'il a faite à propos du paragraphe 3 d) de l'article 14 constitue une réserve, qui exclut l'examen par le Comité de l'argument de l'auteur selon lequel son procès par contumace n'a pas été équitable. Or, la déclaration ne porte que sur le paragraphe 3 d) de l'article 14 et ne concerne pas les prescriptions du paragraphe 1 de l'article 14. Aux termes de ces

²⁶ *T.K. c. France* (affaire 220/1987), *M.K. c. France* (222/1987), *S.G. c. France* (347/1988), *G.B. c. France* (348/1989), *R.L.M. c. France* (363/1989) et *C.L.D. c. France* (439/1990).

²⁷ Affaire 699/1996. Dans le prolongement de cette affaire, l'État partie a informé le Comité qu'il envisageait de retirer sa réserve.

dispositions, il doit être satisfait aux exigences de base d'un procès équitable, même si un procès par contumace n'est pas *ipso facto* une violation des engagements d'un État partie. L'accusé doit notamment être cité à comparaître dans un délai raisonnable et doit être informé de la procédure engagée contre lui.».

29. Dans l'affaire *Hopu et Bessert c. France*²⁸, tout en continuant d'accepter la déclaration faite par la France concernant l'article 27, le Comité a analysé la même plainte sous l'angle des articles 17 et 23 et a conclu qu'il y avait eu des violations de ces articles.

VI. AUTRES ORGANES DES NATIONS UNIES

a) Commission du droit international

30. À sa quarante-cinquième session en 1993, la CDI a décidé d'inscrire à son ordre du jour un sujet intitulé «Le droit et la pratique concernant les réserves aux traités» et a nommé un rapporteur spécial chargé de la question. Cette décision a été prise, en particulier, pour réagir au débat entre «l'école de l'opposabilité», selon laquelle le seul critère de validité d'une réserve est celui des objections formulées par d'autres États, et «l'école de l'admissibilité», qui considère qu'une réserve contraire à l'objet et au but d'un traité est nulle et non avenue en soi, indépendamment des réactions des autres États contractants²⁹. De l'avis du Rapporteur spécial, aucun argument n'offrait de base convaincante en faveur d'un régime de réserves spécifique et, en réalité, c'étaient les lacunes et les ambiguïtés du régime général de la Convention de Vienne qui étaient en cause³⁰. Lors du débat sur la question, certains membres ont souligné la spécificité des traités relatifs aux droits de l'homme et ont estimé que l'Observation générale n° 24 (1994) remédiait aux lacunes de la Convention de Vienne³¹. Le Rapporteur a indiqué que les organes de suivi des traités pouvaient et devaient apprécier la licéité des réserves lorsque cela était nécessaire à l'exercice de leurs fonctions³². Si les organes étaient des organes juridictionnels (comme la Cour européenne des droits de l'homme), leur décision aurait force obligatoire pour les États concernés. S'ils avaient un caractère consultatif, leur avis n'aurait pas valeur obligatoire mais les États parties devraient examiner cet avis de bonne foi. En tout état de cause, les organes non juridictionnels ne pouvaient pas «tirer de conséquences de cette appréciation en l'absence de décision de la part de l'État concerné», c'est-à-dire de son consentement à être lié par le traité. Le Rapporteur spécial a critiqué l'Observation générale n° 24, estimant que le Comité des droits de l'homme s'était érigé «en unique juge de la licéité des réserves». À son avis, le système offert par les objections des États parties restait opérant et était plus efficace³³.

²⁸ Affaire 549/1993.

²⁹ *Annuaire de la Commission du droit international*, 1997, vol. II (Part II), document A/52/10, par. 55.

³⁰ *Ibid.*, par. 75.

³¹ *Ibid.*, par. 129 et suiv.

³² *Ibid.*, par. 82.

³³ Rapport de la CDI, A/52/10 (1997), par. 82 et suiv.

31. Ces débats ont constitué la toile de fond aux conclusions préliminaires de la Commission du droit international concernant les réserves aux traités multilatéraux normatifs, y compris les traités relatifs aux droits de l'homme³⁴, dans lesquelles la Commission concluait que le régime de Vienne s'appliquait à tous les traités mais que la création d'organes de contrôle par les organes qui s'occupaient des droits de l'homme soulevait de nouvelles questions de droit. Lorsque les traités étaient muets à ce sujet, les organes de contrôle avaient compétence pour faire des observations et formuler des recommandations en ce qui concerne la licéité des réserves. Les organes de contrôle pouvaient également apprécier ou déterminer la recevabilité des réserves si cela était expressément prévu dans les traités ou si des protocoles aux traités existants étaient élaborés à cet effet. En tout état de cause, il appartenait à l'État auteur d'une réserve d'en tirer les conséquences. Ces conclusions ont été communiquées aux organes conventionnels pour qu'ils formulent des observations.

32. Dans une lettre datée du 9 avril 1998, la Présidente du Comité des droits de l'homme a répondu que la conclusion de la Commission selon laquelle il appartenait à l'État auteur d'une réserve de prendre des mesures devrait être modifiée de façon à s'adapter aux nouvelles pratiques des organes de contrôle régionaux et internationaux³⁵. Dans une deuxième lettre datée du 5 novembre 1998, le Comité s'est dit préoccupé par les vues exprimées par la Commission au paragraphe 12 de ses conclusions préliminaires³⁶, ajoutant que «les États parties devraient respecter les conclusions de l'organe de contrôle compétent chargé de s'assurer du respect de l'instrument dans le cadre du mandat qui lui a été imparti»³⁷.

33. Le Comité contre la torture a informé la CDI qu'il avait examiné les conclusions préliminaires de la Commission à sa vingt et unième session en novembre 1998 et qu'il partageait les vues exprimées par le Comité des droits de l'homme, et les jugeait conformes à la Convention de Vienne³⁸. Dans sa déclaration de juillet 1998 sur les réserves à la Convention³⁹, le Comité pour l'élimination de la discrimination à l'égard des femmes a conclu qu'il avait certaines responsabilités en la matière et a indiqué que sa pratique consistait à engager un dialogue constructif avec les États au sujet des réserves. Tout en notant que le Rapporteur spécial considérait que c'était aux États parties qu'il appartenait en premier lieu de contrôler la licéité des réserves, le Comité s'est dit vivement préoccupé par le nombre et la portée des réserves illicites. Il a constaté que même lorsque des États formulaient des objections à ces réserves, les États concernés semblaient peu disposés à retirer ou à modifier leurs réserves et à se conformer ainsi aux principes généraux du droit international.

³⁴ Ibid., par. 157.

³⁵ Voir le troisième rapport du Rapporteur spécial (A/CN.4/491), par. 16.

³⁶ «La Commission souligne que les présentes conclusions sont sans préjudice des pratiques et des règles mises en œuvre par les organes de contrôle dans des contextes régionaux.»

³⁷ Cinquième rapport du Rapporteur spécial (A/CN.4/508), par. 11.

³⁸ Ibid., par. 13.

³⁹ Voir par. 11 ci-dessus.

34. La neuvième réunion des présidents des organes créés en vertu d'instruments internationaux relatifs aux droits de l'homme, tenue en 1998, a estimé que le projet de conclusions de la CDI était indûment restrictif et n'accordait pas une attention suffisante à la spécificité de ces instruments. Les présidents ont exprimé leur soutien résolu en faveur de l'approche dont l'Observation générale n° 24 du Comité des droits de l'homme faisait état et ont préconisé de modifier les conclusions proposées par la CDI de façon à prendre en compte cette approche⁴⁰.

35. Dans un rapport présenté en 2001, le Comité pour l'élimination de la discrimination à l'égard des femmes a analysé les pratiques adoptées par les organes créés en vertu d'instruments relatifs aux droits de l'homme en matière de réserves⁴¹. Commentant ce rapport, le Rapporteur spécial de la CDI a noté qu'on en retirait l'impression que les organes des droits de l'homme étudiés se montraient «davantage soucieux d'engager un dialogue avec les États auteurs des réserves afin de les inciter à retirer celles-ci lorsqu'elles leur paraissent abusives, que de se prononcer sur leur licéité»⁴². Dans son septième rapport, le Rapporteur spécial avait constaté que «ces organes avaient été peu nombreux à réagir et que leurs réactions étaient plutôt négatives et peu argumentées»⁴³. Le 13 août 2002, la CDI a envoyé une lettre à tous les organes conventionnels ainsi qu'à la Sous-Commission (avec laquelle, jusqu'alors, elle n'avait pas eu de contact), pour leur proposer de tenir des réunions communes sur cette question.

36. Le 13 mai 2003, la CDI s'est réunie avec le Comité des droits économiques, sociaux et culturels et le Comité contre la torture. Cette réunion a porté principalement sur la question de savoir si, lorsqu'un État partie avait émis une réserve incompatible avec la Convention, il appartenait aux organes conventionnels de déterminer si cet État demeurait lié par la Convention, ou si cette décision était du ressort des États parties. Sur la base des réponses reçues des organes conventionnels, le Rapporteur spécial de la CDI a accueilli avec satisfaction l'approche adoptée par le Comité pour l'élimination de la discrimination raciale dans son opinion préliminaire de mars 2003 et celle exposée par le Comité pour l'élimination de la discrimination à l'égard des femmes dans le rapport susmentionné mais a jugé que l'approche du Comité des droits de l'homme était trop dogmatique. Les membres de la CDI comme ceux des comités étaient apparemment divisés sur cette question.

37. Lors d'une réunion avec la CDI tenue le 31 juillet 2003, le Comité des droits de l'homme a confirmé qu'il continuait de souscrire à l'Observation générale n° 24 et plusieurs membres du Comité ont souligné que l'approche fondée sur la dissociabilité recueillait un soutien croissant, tout en faisant valoir qu'en cas de réserve inacceptable, la dissociabilité n'était pas une conclusion automatique mais seulement une présomption. Le Rapporteur spécial de la CDI a estimé que le Comité devrait être à même de décider de l'applicabilité et de la validité des réserves et que la thèse de la «dissociabilité» pouvait s'appliquer dans des conditions spéciales,

⁴⁰ A/53/125, par. 17 et 18.

⁴¹ CEDAW/C/2001/II/4.

⁴² Huitième rapport du Rapporteur spécial (A/CN.4/535), par. 21.

⁴³ Septième rapport du Rapporteur spécial (A/CN.4/526), par. 20.

mais seulement si l'organe de contrôle concerné procédait à une évaluation de bonne foi de l'intention véritable de l'État réservataire. Des disparités entre les différentes versions linguistiques de l'Observation générale n° 24 ont été mises en évidence et on a laissé entendre que celles-ci (en particulier dans la version française) pouvaient avoir contribué à donner l'impression d'une certaine rigidité dans les considérations sur la dissociabilité.

38. Lors d'une réunion entre le Comité pour l'élimination de la discrimination raciale et la CDI tenue le 4 août 2004, le Rapporteur spécial a indiqué que la CDI avait l'intention de réviser ses conclusions préliminaires car elles risquaient d'entraîner dans la pratique certaines difficultés lorsqu'un État réservataire ne décidait pas de la mesure appropriée à prendre suite à une déclaration d'invalidité de ses réserves, du fait qu'aucun mécanisme n'obligeait l'État à agir. Le Rapporteur spécial a également estimé que les vues exprimées par la CDI dans ses conclusions préliminaires avaient peut-être été trop rigides et qu'il fallait parvenir à une approche intermédiaire entre celle préconisée par le Comité des droits de l'homme et celle exposée dans lesdites conclusions. À son avis, les organes adoptant des décisions qui avaient force contraignante pourraient être compétents pour se prononcer sur la possibilité de dissocier une réserve du consentement de l'État à être lié par le traité. L'organe concerné devrait toutefois mener une recherche approfondie pour élucider l'intention de l'État partie visé, ce qui, dans certains cas, pourrait s'avérer impossible. Le Rapporteur spécial s'est dit satisfait de la position exprimée par le Comité pour l'élimination de la discrimination raciale dans son opinion préliminaire, dont le Comité a précisé qu'elle avait été confirmée lors d'un débat plénier le 3 août 2004. Le Comité a également indiqué que le régime de réserve élaboré dans l'article 20 de la Convention s'étant révélé inopérant, il avait entrepris d'appliquer de façon officieuse les règles définies dans la Convention de Vienne. L'approche suivie par le Comité devrait continuer d'être pragmatique et viser à promouvoir l'application la plus large et la plus uniforme possible de la Convention grâce au dialogue et à la persuasion. Les membres de la CDI ont souligné qu'il était difficile pour le Comité de prendre des mesures en cas de réserve incompatible alors qu'une disposition spécifique de la Convention prévoyait que la décision était du ressort des États parties. Ils ont également fait observer que la CDI menait actuellement une réflexion sur une nouvelle procédure qualifiée de «dialogue réservataire», qui permettrait aux organes et aux États parties d'engager un dialogue sur le retrait et la validité des réserves. L'attention a été appelée sur le projet de directive 2.5.3 de la CDI concernant la question du réexamen périodique de l'utilité des réserves, libellée comme suit:

«Les États ou les organisations internationales qui ont formulé une ou plusieurs réserves à un traité devraient procéder à un réexamen périodique de celles-ci et envisager le retrait des réserves qui ne répondent plus à leur objectif. Dans cet examen, les États et les organisations internationales devraient accorder une attention particulière à l'objectif de l'intégrité des traités multilatéraux et s'interroger, le cas échéant, sur l'utilité du maintien des réserves, notamment au regard de leur droit interne et des évolutions qu'il a subies depuis la formulation de ces réserves.»

b) Sous-Commission de la promotion et de la protection des droits de l'homme

39. En 1991, la Sous-Commission a examiné une proposition tendant à demander à la Cour internationale de Justice de fournir un avis consultatif sur la validité des réserves à la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, eu égard au

nombre et à la portée des réserves à la Convention⁴⁴. Selon les auteurs de cette proposition, seule la Cour internationale pouvait se prononcer sur les conséquences qu'entraînait une réserve illicite: c'est-à-dire la question de savoir si l'État partie demeurerait lié sans que la réserve n'ait d'effet ou s'il ne serait pas lié du tout. La Sous-Commission a décidé de laisser cette proposition en suspens.

40. Dans une lettre datée du 19 mars 1997, le Président du Comité pour l'élimination de la discrimination raciale a proposé que la Sous-Commission examine, entre autres, la question des réserves aux traités. Le Président a expliqué que, si la question des réserves était «normalement régie par la Convention de Vienne sur le droit des traités, celle-ci ne traitait pas expressément des problèmes qui se posent dans le cas d'un instrument international ayant pour but précis de promouvoir les droits de l'homme auquel ne peut être appliqué le concept de réciprocité vu que ces traités ont vocation à s'appliquer sans discrimination à toutes les personnes»⁴⁵. Dans sa décision 1998/113, la Sous-Commission a demandé à M^{me} Françoise Hampson d'établir un document de travail sur la question des réserves aux traités relatifs aux droits de l'homme. Dans son document de travail⁴⁶, M^{me} Hampson déclarait que «les réserves aux traités des droits de l'homme soulèvent des difficultés très particulières, en partie parce que la Convention de Vienne sur le droit des traités n'envisage pas pour des organes d'exécution ou de contrôle indépendants la possibilité de prendre position sur la validité des réserves. Or, cette compétence découle nécessairement de leurs fonctions.». Elle suggérait d'entreprendre un examen au fond et détaillé des réserves elles-mêmes, pour les différents traités relatifs aux droits de l'homme. Il faudrait demander aux États s'ils envisageaient le moment venu de retirer les réserves et on pourrait aussi leur demander quelle option ils retiendraient s'ils avaient à choisir entre demeurer partie au traité sans chacune des réserves ou dénoncer le traité⁴⁷. La Sous-Commission a approuvé les conclusions de M^{me} Hampson et, dans sa résolution 1999/27, l'a nommée Rapporteuse spéciale chargée d'établir une étude détaillée sur les réserves aux traités relatifs aux droits de l'homme.

41. Suite à une demande de clarification de la Commission des droits de l'homme, qui souhaitait savoir comment l'étude proposée compléterait les travaux déjà entrepris sur les réserves aux traités relatifs aux droits de l'homme, en particulier dans le cadre de la CDI⁴⁸, la Sous-Commission a décidé, dans sa résolution 2000/16, de nommer M^{me} Hampson Rapporteuse spéciale et l'a chargée d'établir une étude détaillée sur les réserves aux traités relatifs aux droits de l'homme. Cette étude ne ferait pas double emploi avec les travaux de la CDI, qui portaient sur le régime juridique applicable aux réserves et aux déclarations interprétatives en général, étant donné que dans l'étude proposée, il s'agissait d'examiner, à la lumière de ce régime, les réserves et les déclarations interprétatives effectivement faites à l'égard des traités relatifs aux droits de l'homme. La Commission des droits de l'homme ayant demandé à la Sous-Commission de

⁴⁴ E/CN.4/Sub.2/1991/41.

⁴⁵ E/CN.4/Sub.2/1997/31, annexe.

⁴⁶ E/CN.4/Sub.2/1999/28 et Corr.1.

⁴⁷ Ibid., par. 31 et 33.

⁴⁸ Décision 2000/18.

réexaminer sa décision compte tenu des travaux menés par la CDI⁴⁹, la Sous-Commission, dans sa décision 2001/17, a chargé M^{me} Hampson d'établir un document de travail élargi sur les réserves aux traités relatifs aux droits de l'homme, qui ne devait pas faire double emploi avec les travaux de la CDI.

42. Le document de travail élargi établi par M^{me} Hampson contenait un tableau indiquant pour les traités des Nations Unies relatifs aux droits de l'homme (alors au nombre de six) «quels États ont formulé des réserves ou des déclarations interprétatives, si les réserves portaient sur des dispositions normatives ou de procédure, si d'autres États ont fait une objection et, dans ce cas, si celle-ci était fondée sur l'incompatibilité de la réserve/déclaration interprétative avec l'objet et le but du traité»⁵⁰. La Sous-Commission a demandé à M^{me} Hampson de soumettre un autre document de travail élargi⁵¹, ce qu'elle a fait en 2003⁵². En ce qui concerne la procédure prévue pour les plaintes émanant de particuliers, elle a indiqué qu'on ne saurait attendre d'un organe de contrôle qu'il donne effet à une réserve qu'il a jugée incompatible avec l'objet et le but d'un traité et elle a souligné que le résultat est l'application du traité sans la réserve («dissociation»), puisque la Haute Partie contractante a bien entendu la possibilité de dénoncer le traité ou le protocole. Elle a conclu en particulier que «lorsqu'un organe créé en vertu d'un instrument relatif aux droits de l'homme parvient à la conclusion qu'une réserve est incompatible avec l'objet et le but du traité, l'État réservataire peut i) retirer la réserve ou ii) la modifier de façon à la rendre compatible avec le traité ou iii) dénoncer le traité. Les organes créés en vertu d'instruments relatifs aux droits de l'homme devraient être encouragés à poursuivre leur pratique actuelle qui consiste à engager un dialogue avec les États réservataires en vue d'apporter à la réserve incompatible les modifications nécessaires pour la rendre compatible avec le traité.»

43. Dans sa décision 2003/114, la Sous-Commission a prié M^{me} Hampson d'établir un document de travail final et actualisé, en vue de le transmettre au Comité pour l'élimination de la discrimination raciale, aux autres organes conventionnels et à la CDI. En 2004, M^{me} Hampson a soumis ce document de travail final⁵³, dans lequel elle concluait qu'en application des règles normales du droit conventionnel ainsi que du principe selon lequel un organe judiciaire ou quasi judiciaire est compétent pour se prononcer sur sa propre compétence, les organes de contrôle des traités relatifs aux droits de l'homme étaient compétents pour déterminer si une réserve était ou non incompatible avec l'objet et le but du traité. Elle proposait également qu'un tableau global de toutes les réserves et réactions à celles-ci soit établi et tenu à jour et qu'on procède à une compilation de toutes les observations faites par un organe conventionnel, dans quelque contexte que ce soit, à l'égard des réserves. Ces observations devraient être communiquées à tous les autres organes conventionnels. Elle a recommandé de surseoir à tout autre examen de la question

⁴⁹ Décision 2001/113.

⁵⁰ E/CN.4/Sub.2/2002/34, par. 2.

⁵¹ Décision 2002/110.

⁵² E/CN.4/Sub.2/2003/WP.2.

⁵³ E/CN.4/Sub.2/2004/42.

en attendant la publication du prochain rapport du Rapporteur spécial de la CDI et ses conclusions sur la validité des réserves et les conséquences de leur invalidité.

44. La CDI et la Sous-Commission de la promotion et de la protection des droits de l'homme se sont réunies le 7 août 2003 et sont tombées d'accord pour estimer qu'il est de la compétence d'un organe conventionnel de déterminer la validité des réserves. En revanche, les opinions étaient partagées sur la question des conséquences à tirer lorsqu'un organe créé en vertu d'instruments relatifs aux droits de l'homme conclut qu'une réserve est incompatible. Pour M^{me} Hampson, il appartenait à l'État de décider des conséquences d'une telle détermination mais, dans l'intervalle, l'État resterait lié par le traité sans bénéficier de la réserve. Le Rapporteur spécial de la CDI a indiqué qu'à son sens une telle solution irait à l'encontre du principe général du droit international qui veut que les États ne soient liés par les traités qu'à raison de leur consentement. Certains membres de la Sous-Commission ont également fait valoir que les États pouvaient se retirer d'un traité si l'organe de contrôle décidait qu'une réserve était incompatible. La Sous-Commission dans son ensemble n'avait pas arrêté une position commune sur cette question.

VII. CONCLUSIONS

45. L'étude de l'approche suivie par les organes conventionnels en ce qui concerne les réserves (annexe 1) montre que les réserves sont un sujet de préoccupation important, bien que la façon dont cette préoccupation s'exprime ainsi que les mesures correctrices éventuellement recommandées varient à la fois au sein des organes et d'un organe à l'autre. Les organes conventionnels sont tous préoccupés par l'existence et la portée des réserves et s'efforcent, à travers leurs mécanismes respectifs, de restreindre la portée des réserves existantes et d'encourager les États parties à les retirer. Toutefois, les organes conventionnels ne sont guère éclairants sur les critères à utiliser pour déterminer si une réserve est inacceptable parce qu'elle va à l'encontre de l'objet et du but d'un traité. De même, ils ne fournissent guère d'orientation sur les conséquences de la qualification d'une réserve comme contraire à l'objet et au but d'un traité ni sur la façon dont ces organes devraient procéder avec les États parties dont les réserves à une même disposition ne sont pas cohérentes d'un traité à l'autre.

46. En matière de réserves, il semble que l'on puisse attendre des organes conventionnels qu'ils harmonisent davantage leurs approches, en se fondant éventuellement sur une observation générale commune. Les questions que les organes conventionnels pourraient aborder dans une telle observation seraient notamment les suivantes:

a) Les listes de questions à traiter devraient-elles systématiquement inclure une interrogation concernant le fondement factuel des réserves ou la nécessité de leur maintien?

b) Lors du dialogue constructif, le/un rapporteur de pays devrait-il toujours soulever la question des réserves dans ses observations sur le rapport de l'État partie?

c) Lorsqu'ils formulent des observations finales, les organes conventionnels devraient-ils:

i) Se féliciter systématiquement de l'absence de réserves en y voyant un élément encourageant;

- ii) Se féliciter systématiquement du retrait, total ou partiel, d'une réserve;
 - iii) Formuler des commentaires positifs lorsque des États expriment leur volonté de réexaminer des réserves ou que des réserves sont en cours de réexamen;
 - iv) Se féliciter systématiquement de l'absence de réserve;
 - v) Voir dans l'existence d'une réserve un facteur entravant l'application du traité considéré;
 - vi) Inclure des formulations types faisant état de leurs préoccupations en cas de maintien des réserves, de non-réexamen de la nécessité de telles réserves ou de non-retrait de ces réserves;
 - vii) Engager les États à réduire progressivement la portée des réserves par des retraits partiels, ou préconiser un retrait complet;
- d) Étant donné le manque de cohérence dont font parfois preuve les États parties lorsqu'ils émettent des réserves à certaines dispositions inscrites dans plusieurs traités, les organes conventionnels devraient-ils limiter la portée d'une réserve ou ne pas en tenir compte en partant du constat que d'autres conventions internationales offrent une meilleure protection, ou devraient-ils prévoir la possibilité de limiter la portée d'une réserve formulée dans un traité donné, voire de ne pas en tenir compte⁵⁴?
- e) Les organes conventionnels devraient-ils adopter une démarche normalisée pour déterminer si des réserves doivent être considérées comme étant contraires à l'objet et au but du traité, et adopter en la matière des formulations types?
- f) Les organes conventionnels devraient-ils inclure les réserves dans les questions prioritaires à examiner au titre des procédures de suivi?

47. Les organes conventionnels ont également envisagé d'adopter une approche commune pour traiter la question des réserves dans leurs rapports, en y incluant éventuellement une section dans laquelle ils indiqueraient le nombre d'États ayant émis des réserves au traité, les réserves émises ou levées pendant la période à l'examen (en mentionnant leurs vues sur ces mesures), les observations formulées par l'organe au sujet des réserves lors de l'examen des rapports et, le cas échéant, dans le cadre des plaintes émanant de particuliers pendant la période considérée, ainsi que toute autre disposition ou mesure prise par l'organe compétent.

⁵⁴ Voir en particulier le cas de l'alinéa *b* de l'article 23 de la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes.

Annexes

Table of Contents of Annexes

	<i>Page</i>
Annex 1: The Practice of the Human Rights Treaty Bodies with Respect to Reservations - Concluding Observations/Comments and Miscellaneous Issues	23
A. Committee on the Elimination of Racial Discrimination	23
B. Human Rights Committee	32
C. Committee on Economic, Social and Cultural Rights	49
D. Committee on the Elimination of Discrimination against Women	52
E. Committee against Torture	70
F. Committee on the Rights of the Child	75
Annex 2: Tables of reservations, objection and withdrawals	102
A. International Convention on the Elimination of All Forms of Racial Discrimination	102
B. International Covenant on Civil and Political Rights	106
C. First Optional Protocol to the International Covenant on Civil and Political Rights	114
D. International Covenant on Economic, Social and Cultural Rights	115
E. Convention on the Elimination of All Forms of Discrimination against Women	118
F. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	127
G. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	133
H. Convention on the Rights of the Child	133
I. Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict	142
J. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	145
K. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	146

Annex 1

The Practice of the Human Rights Treaty Bodies with Respect to Reservations - Concluding Observations/Comments and Miscellaneous Issues

A. Committee on the Elimination of Racial Discrimination

Positive remarks

On four occasions, the Committee welcomed a State party's withdrawal of a reservation (*Belarus, Bulgaria, Hungary, Poland*).

On one occasion:

- the Committee described a withdrawal of a reservation as an "encouraging sign" (*Bulgaria*);
- in the context of welcoming adoption of other legislation, the Committee recommended that the State party continue making efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, an article of the Convention (*Australia*);
- the Committee noted with satisfaction that a State party had in practice abandoned its reservations to the Convention and instituted a procedure for their formal withdrawal (*Italy*);
- the Committee welcomed information that the State party was considering withdrawing its reservations (*Nepal*);
- the Committee welcomed a State party's delegation's commitment to withdraw a reservation (*Spain*).

Neutral remarks

On three occasions, the Committee observed that in the absence of a relevant reservation certain standards had to be met by the State party on the substantive issue (*Iceland, Norway, Sweden*).

On one occasion:

- the Committee stated that it would be appreciated if the next report contained information as to whether it was considering withdrawal of a reservation (*Barbados*);
- the Committee noted the existence of a reservation (*Papua New Guinea*).

Critical remarks

On four occasions, the Committee recommended that the State party consider withdrawing its reservation (*Belarus twice, Belgium, Papua New Guinea*).

On one occasion the Committee:

- noted the formulation of reservations with concern and encouraged withdrawal thereof. (*Fiji*) (The Committee had earlier asked the same State party that “detailed information” be submitted on the “significance and consequences” of its reservations and declarations);
- noted the existence of a reservation but considered that the State party’s interpretation of the article in question was at odds with its obligations under that provision (*Japan*);
- recommended that the State party adopt appropriate legislation with a view to withdrawing its reservation to an article of the Convention (*Australia*);
- noted with concern, on account of vagueness and generality in particular, reservations entered and encouraged the State party to consider withdrawing all reservations (*Bahamas*);
- suggested that the State party consider withdrawing its reservation (*Jamaica*);
- hoped that the State party would be in a position to withdraw its reservation (*Jamaica*);
- requested the State party to consider the possibility of withdrawing a reservation (*Barbados*);
- suggested that the State party avail itself of the possibility under article 20(3) of the Convention to withdraw its reservations in order to ensure the full applicability of the relevant articles (*Nepal*);
- remained concerned, in view of two reservations by a State party, that full implementation of the relevant provisions might not be ensured, and thus recommended that the State party consider withdrawal in order to ensure the full applicability of the articles (*Nepal*);
- encouraged the State party to review a reservation with a view to formally withdrawing it, in light of concerns of compatibility with the object and purpose of the Convention (*Saudi Arabia*);
- encouraged a State party to review its declarations and reservations with a view to withdrawal (*United Kingdom*);
- recommended review of a reservation (*Spain*);
- expressed the hope that a State party would withdraw a reservation (*Spain*);

- expressed the hope that a State party would undertake to withdraw its reservations (*Viet Nam*);
- invited the State party to consider if a reservation was still necessary or could be withdrawn (*Switzerland*);
- invited the State party to consider formally withdrawing its reservations (*Yemen*);
- urged the State party to reconsider a reservation (*Switzerland*);
- emphasized concern about the State party's declarations and reservations, and was particularly concerned about the implication of one reservation (*United States of America*);
- recommended that the State party seriously consider withdrawing its reservations (*Yemen*).

Comments on other treaties

On one occasion, the Committee expressed concern at the State party's reservations to another treaty and welcomed the introduction of draft legislation, which reflected the State party's intention to withdraw these reservations. The Committee encouraged the State party to give high priority to this process (*Malawi*).

Miscellaneous

In its Annual Reports, the Committee has recorded a number of matters concerning its view of reservations to the Convention. The Committee recorded that on 4 August 2004, it had held a joint meeting with the International Law Commission, at the latter's invitation, on the question of reservations to human rights treaties. The Chairperson of the Committee referred to a working paper assessing the recent practice of the Committee regarding reservations prepared by Committee member Sicilianos. He explained that article 20 of the Convention constituted a specific basis for the Committee as it provided criteria for admissibility and validity of reservations and stressed that a similar provision did not exist in other human rights treaties. While relying on this provision as a starting point, the Committee had adopted a flexible and pragmatic approach regarding reservations. The Committee had requested further information or formulated substantive recommendations on issues covered by reservations, while inviting States to consider the scope, or even the withdrawal of their reservations. In some cases, the Committee had had to adopt a critical position regarding the compatibility of reservations of a general character with the provisions, or even with the object and purpose of the Convention. (A/59/18 (2004), at paragraph 11).

In recent years, the Committee has included an agenda item on action taken by the General Assembly, including resolutions of that body concerning the Convention and the Committee's work. The Committee most recently reviewed action taken by the General Assembly at its 58th session. It had before it General Assembly resolution 58/160 of 22 December 2003 which inter alia: "(c) urged States parties to withdraw reservations contrary to the object and purpose of the Convention". (A/59/18 (2004), at paragraph 474). Previously, the Committee reviewed General

Assembly action taken on the basis of slightly varying resolutions. Thus, General Assembly Resolution 57/194 of 18 December 2002 inter alia “(e) urged States parties to withdraw reservations that are contrary to the object and purpose of that Convention and to review their reservations on a regular basis with a view to withdrawing them”. (A/58/18 (2003) at paragraph 585). Similarly, General Assembly Resolution 56/267 inter alia “(b) ... urged States to withdraw reservations contrary to the object and purpose of that Convention and to consider withdrawing other reservations”. (A/57/18 (2002), at paragraph 493). General Assembly Resolution 55/81, for its part, inter alia “(b) urged all States that had not yet done so ... to review their reservations to the Convention with a view to withdrawing them, and to withdraw reservations contrary to the object and purpose of the Convention”. (A/56/18 (2001), at paragraph 462).

In connection with the preparations for, and aftermath of, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001), the Committee made a number of pronouncements concerning reservations. In its General Recommendation XXVIII on the follow-up to the World Conference, the Committee recommended to States, in the context of measures to strengthen the implementation of the Convention, “(d) to consider withdrawing their reservations to the Convention” (A/57/18 (2002), Annex E). In Decision 5(55) in advance of the World Conference, the Committee inter alia decided to compile a list of States reserving to the Convention and the texts thereof (A/54/18 (1999)).

The Committee has also participated in the discussions of this issue by other bodies. Under an item entitled “Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights”, the Committee has recorded interaction with cross-Committee processes. In 1993, the Committee Chair introduced the report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628), which had been held in October 1992. Attention was drawn to a number of conclusions and recommendations contained in the report which had direct implications for the work of the Committee, including the number, nature and scope of reservations to the Convention. (A/48/18 (1993) at paragraph 13). Under the same item two years later, the Committee, in its discussion of the report of the sixth meeting of persons chairing the human rights treaty bodies (A/50/505), noted that emphasis was focused inter alia on the recent increase in the number and breadth of reservations made by States Parties upon ratification of certain treaties, which tended to undermine the letter and the spirit of human rights treaties. (A/51/18 (1996), at paragraph 575).

Subsequently, the Committee took note of the recommendations of the report of the seventh meeting of persons chairing human rights treaty bodies. With respect to recommendations which requested action by individual treaty bodies, the Committee inter alia submitted a letter to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1997/31) which indicated recommended topics for its study by the Sub-Commission (see A/51/482, para. 53), including reservations to treaties. (A/52/18 (1997), at paragraph 654). In 1998, the Committee took note of the note of the discussion of reservations to international instruments on human rights contained in the report of the ninth meeting of persons chairing the human rights treaty bodies (A/53/125, annex). It decided to entrust two Committee members (Diaconu and Rechetov) with the task of preparing a

working paper on reservations to the Convention, which was discussed at the Committee's fifty-fourth session. (A/53/18 (1998), at paragraphs 499 and 501). 654.

Australia

37. ... The Committee recommends that the State party continue making efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, article 4 (a) of the Convention. (A/55/18 (2000)).

523. Members asked for clarification of Australia's reservation to article 4 (a) and in particular on the reasons for which the reservation had not been entered promptly in accordance with the terms of the reservation itself; on problems encountered in implementing article 4 of the Convention in Tasmania; on the measures taken to deal with racial violence against persons of a racial or ethnic origin different from that of the majority of Australians; on the inquiries conducted and penalties imposed following the violent action of the police against Asian students during the confrontations in June 1993; and on the conclusions of the Ombudsman following the inquiry into interracial relations in New South Wales which he had conducted at the request of the state Minister for the Maintenance of Order.

549. The Committee recommends that the State party adopt appropriate legislation with a view to withdrawing its reservation to article 4 (a) of the Convention. (A/49/18 (1994)).

Bahamas

27. The Committee notes with concern the reservations to the Convention entered by the State party, in particular the vague and general statement that the State party will not accept obligations going beyond constitutional limits or the obligation to introduce a judicial process beyond those prescribed under the Constitution.

The Committee encourages the State party to consider withdrawing all the reservations it entered upon acceding to the Convention. (A/59/18 (2004)).

Barbados

285. Members of the Committee noted that a reservation made by Barbados at the time of accession implied that the provisions of the Convention could not be invoked in the courts, which affected the implementation of articles 2, 4, 5 and 6 of the Convention. In view of that situation, the Government of Barbados should be requested to consider the possibility of withdrawing that reservation.

290. It would be appreciated [by the Committee] if the State party's next periodic report contained information as to whether it is considering withdrawing its reservation to the Convention. (A/49/18 (1994)).

Belarus

The Committee recommends that the State party consider withdrawing its reservation to article 17 of the Convention. (A/59/18 (2004)).

103. The withdrawal by the State party of its reservation to article 22 of the Convention is welcomed. (A/52/18 (1997)).

326. The members of the Committee recommended that Belarus consider withdrawing its reservation to the Convention since this reflected the tensions of an earlier age. A/50/18 (1995).

Belgium

51. ... Taking into account the mandatory nature of article 4 of the Convention, the Committee also recommends that the State party enact legislation that declares illegal and prohibits any organization which promotes or incites to racism and racial discrimination and consider withdrawing its reservation to this article. In this context, the Committee draws the attention of the State party to its general recommendation XV (A/57/18 (2002)).

Bulgaria

278. It is noted with great appreciation that the State party has made the Declaration under article 14 of the Convention, recognizing the competence of the Committee to receive communications, and the withdrawal of its reservation in relation to article 22 of the Convention is welcomed (A/52/18 (1997)).

278. The sincere dialogue between the Committee and the high-calibre delegation had been exceptional and provided many encouraging signs, such as the announcement of Bulgaria's forthcoming declaration under article 14 of the Convention, the withdrawal of its reservation to the Convention and a new census to be conducted with United Nations support, as well as the changes in domestic law, marked by the adoption of a new constitution and a number of amnesty laws and laws on restoration of lands (A/46/18 (1992)).

Fiji

81. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the Durban Plan of Action (A/58/18 (2003)).

474. Responding to the suggestion of the State party in its note verbale of 7 August 2002 that questions and requests for further clarification as a result of the submission of the reports be presented in advance, the Committee recommends that the State party ensure that detailed information is submitted on the following:

(b) The significance and consequences of the reservation and declarations formulated by the State party, in particular those relating to the implementation of article 5 of the Convention and indigenous rights (A/57/18 (2002)).

Hungary

109. The fact that Hungary has made the declaration under article 14 of the Convention and has withdrawn its reservation previously made in relation to article 22 of the Convention is welcomed (A/51/18 (1996)).

Iceland

393. Referring to article 4 of the Convention, the members of the Committee stressed that, although no racist organization had ever existed in Iceland, rules prohibiting such organizations must be enacted since Iceland had not formulated any reservations to article 4 of the Convention (A/49/18 (1994)).

Italy

84. With regard to the reservation made by Italy to article 6 of the Convention, members asked whether consideration was given to its withdrawal.

95. It is noted with satisfaction that Italy is one of the States parties which has made the declaration under article 14 of the Convention and that it has in practice abandoned its reservations to the Convention and instituted a procedure for their formal withdrawal (A/540/18 (1995)).

Jamaica

133. The Committee again suggests that the State party consider withdrawing its reservation to article 4 of the Convention (A/57/18 (2002)).

160. In particular, [the Committee] hoped that, by that time, Jamaica would be in a position to withdraw its reservation concerning article 4 of the Convention (A/48/18 (1993)).

Japan

169. The Committee notes the reservation maintained by the State party with respect to article 4 (a) and (b) of the Convention, stating that "Japan fulfils the obligations under those provisions to the extent that fulfilment ... is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan". The Committee expresses concern that such an interpretation is in conflict with the State party's obligations under article 4 of the Convention. The Committee draws the attention of the State party to its general recommendations VII and XV, according to which article 4 is of mandatory nature, given the non-self-executing character of all its provisions, and the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the rights to freedom of opinion and expression (A/56/18 (2001)).

Malawi

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education (A/58/18 (2003)).

Nepal

123. The Committee welcomes the information that the State party is considering withdrawing its reservations to articles 4 and 6 of the Convention and making the optional declaration provided for in article 14 (A/59/18 (2004)).

295. In view of the State party's reservation on articles 4 and 6 of the Convention, the Committee remains concerned that the full implementation of those provisions may not be ensured, and therefore reiterates its previous recommendation to the State party to consider withdrawing its reservation (A/55/18 (2000)).

435. In view of the State party's declaration on articles 4 and 6 of the Convention, the Committee repeats its suggestion to the State party that it avail itself of the possibility, under article 20, paragraph 3, of the Convention, to withdraw its reservations in order to ensure the full applicability of the provisions of articles 4 and 6 (A/53/18 (1998)).

Norway

239. In relation to article 4 of the Convention, members of the Committee stressed that, since Norway had not formulated any reservation to that article, it was bound to take the measures it provided for and to adopt instruments prohibiting all types of racist crimes and discrimination (A/49/18 (1994)).

Papua New Guinea

291. The Committee recommends that the State party consider withdrawing its reservation to article 4 of the Convention (A/58/18 (2003)).

262. [Les membres du Comité] ont également noté que ... [I] La Papouasie-Nouvelle-Guinée avait émis une réserve à propos de l'article 4 de la Convention (A/47/18 (1992)).

Poland

154. The Committee welcomes the State party's withdrawal on 16 October 1997 of its reservation to article 22 of the Convention, its declaration under article 14 of the Convention, made on 1 December 1999, recognizing the Committee's competence to receive individual complaints, and its ratification on 23 August 2002 of the amendment to article 8 of the Convention (A/58/18 (2003)).

Romania

254. Members asked whether the Government was considering making the declaration under article 14 of the Convention, according to which individuals could present communications

regarding human rights violations before the Committee, or withdrawing its reservations to articles 17, 18 and 22 (A/50/18 (1995)).

Saudi Arabia

209. The broad and imprecise nature of the State party's general reservation raises concern as to its compatibility with the object and purpose of the Convention. The Committee encourages the State party to review the reservation with a view to formally withdrawing it (A/58/18 (2003)).

Spain

172. While noting that the State party has made the declaration provided for in article 14 of the Convention, the Committee recommends that the State party review its reservation under article 14, which imposes a restrictive deadline of three months instead of six after the exhaustion of domestic remedies, for the submission of communications to the Committee (A/55/18 (2000)).

200. The commitment expressed by the delegation on behalf of the Government to make the declaration under article 14 of the Convention, to withdraw the reservation to article 22 of the Convention and to consider the ratification of the amendments to article 8, paragraph 6, of the Convention adopted at the 14th meeting of States Parties is welcomed (A/51/18 (1996)).

487. The members of the Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and withdrawing its reservation to article 22 of the Convention (A/49/18 (1994)).

Sweden

186. In relation to article 4 of the Convention, members of the Committee noted the will of Sweden not to prohibit by legislative measures organizations qualified as racist. However, such measures were compulsory for States parties which had not entered reservations to article 4 of the Convention (A/49/18 (1994)).

Switzerland

255. Noting that the former "three-circle" immigration policy of Switzerland which classified foreigners according to categories of national origin and capacity for integration was abandoned and replaced by a binary admissions system and in view of the dialogue held with the Swiss delegation in this respect, the Committee invites the State party to consider if the reservation to article 2 (1) (a) of the Convention is still necessary or may be withdrawn (A/57/18 (2002)).

62. The Committee urges the State party to review those elements of its current immigration policy that classify foreigners on the basis of their national origin, and recommends that it reconsider the reservation made to article 2, paragraph 1 (a), of the Convention (A/53/18 (1998)).

United Kingdom of Great Britain and Northern Ireland

396. Members of the Committee asked whether the United Kingdom was considering withdrawing, or at least reducing to a minimum, its reservations and statements of interpretation

with regard to the Convention, concerning articles 4 and 6 in particular. They wished to know why the reservations relating to Rhodesia and Fiji had not yet been withdrawn.

422. The Committee encouraged the State party to review its interpretative statements and reservations, in particular, those with regard to articles 4 and 6 of the Convention, with a view to withdrawing them (A/48/18 (1993)).

United States of America

391. The Committee emphasizes its concern about the State party's far-reaching reservations, understandings and declarations entered at the time of ratification of the Convention. The Committee is particularly concerned about the implication of the State party's reservation on the implementation of article 4 of the Convention. In this regard the Committee recalls its general recommendations VII and XV, according to which the prohibition of dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression, given that a citizen's exercise of this right carries special duties and responsibilities, among which is the obligation not to disseminate racist ideas. The Committee recommends that the State party review its legislation in view of the new requirements of preventing and combating racial discrimination, and adopt regulations extending the protection against acts of racial discrimination, in accordance with article 4 of the Convention (A/56/18 (2001)).

Viet Nam

340. Members of the Committee expressed the hope that the State party would give serious consideration to making the declaration under article 14 of the Convention and would also undertake to withdraw its reservations to the Convention.

358. The Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and recommended that the State party should seriously consider withdrawing its reservations under the Convention (A/48/18 (1993)).

Yemen

462. While noting that the State party has provided information under article 5 of the Convention despite the reservations lodged, the Committee invites the State party to continue to provide specific information on how this article is implemented and to consider formally withdrawing those reservations.

463. Given recent political developments, the Committee also invites the State party to consider formally withdrawing its reservations to articles 17, 18 and 20 of the Convention (A/57/18 (2002)).

B. Human Rights Committee

Positive remarks

On five occasions the Committee:

- welcomed a State party's withdrawal of one or more reservations (*Iceland, Ireland, Republic of Korea, Switzerland, United Kingdom*).

On one occasion the Committee:

- welcomed a State party's withdrawal of some of its reservations to the Covenant, while noting that it would have been appreciated if the reasons for these withdrawals and the precise nature of their effect had been more clearly explained (*Austria*);
- noted with appreciation the withdrawal of several reservations made upon ratification of the Covenant (*Ireland*);
- welcomed the partial withdrawal of a reservation to a certain article (*Norway*);
- welcomed a State party's accession without any reservation to various international human rights instruments (*Gabon*);
- appreciated the efforts made towards the withdrawal of the State party's reservation in connection with a certain article of the Covenant (*Norway*);
- commended the State party for ratifying the Covenant without entering any reservations (*Paraguay*);
- welcomed a State party's accession to an instrument (Second Optional Protocol), though with a reservation (*Azerbaijan*).
- noted and welcomed the statement of the State party's delegation on the probable withdrawal of some of the State party's reservations to the Covenant, although it considered the statement open to doubt (*Liechtenstein*);
- noted with satisfaction the assurances of the State party's Government that its declaration regarding the federal system was not a reservation and was not intended to affect its international obligations (*United States of America*);
- noted with satisfaction that the State party was currently studying the possibility of withdrawing the reservations that it had made with respect to the Covenant (*Republic of Korea*);

Neutral remarks

On one occasion the Committee:

- took note of the comments of the State party's delegation on the limited, or even theoretical, scope of the reservations formulated by it to various provisions of the Covenant (*Luxembourg*);
- stated that it was aware of a reservation, but took the view that once action was taken due to the reservation would not have been required, it had to conform to the Covenant (and in the instant case did not) (*Hong Kong SAR*);
- while noting the State party's [general] reservation to article 9 of the Covenant, considered that that reservation did not exclude, inter alia, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee was also of the view that preventive detention is a restriction on liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be considered as a determination falling within the meaning of article 14, paragraph 1, of the Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision. The Committee recommended that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal, constituted and operating in accordance with article 14, paragraph 1, of the Covenant (*India*);
- noted that the provisions of the Covenant were extended by the State party to a territorial possession with certain reservations, particularly in regard to particular articles (*Macau*);
- noted the mandate given to a State party's federal administration to examine the question of the removal of reservations to human rights treaties and hoped that by the time the next report was considered all reservations to the Covenant would have been withdrawn (*Switzerland*);
- noted that the withdrawal of a State party's reservations to a certain article was currently under consideration by its executive (*Switzerland*);
- was concerned at a particular practice in an overseas territory, given that it was not one of the territories to which a relevant reservation had been applied (*United Kingdom*);
- with reference to the withdrawal of the State party's reservation to a certain article, urged the authorities to introduce further reforms to secure all their inhabitants the full exercise of the rights conferred by that article (*United Kingdom*);

Negative remarks

On two occasions the Committee:

- recommended that the State party review the continuing need for any reservation, with a view to withdrawing them (*Denmark and Iceland*);

On one occasion the Committee:

- found that a State party's interpretative declaration regarding articles 2 and 3 contravened the State party's essential obligations under the Covenant and was therefore without legal effect and did not affect the powers of the Committee. The Committee thus urged the State party to withdraw formally both the interpretative declarations and the reservations (*Kuwait*);
- referring to its General Comment No. 24 on reservations, noted that a State party's interpretative declarations and reservations raised the serious issue of their compatibility with the object and purpose of the Covenant. In particular, the Committee noted that articles 2 and 3 of the Covenant constituted core rights and overarching principles of international law that cannot be subject to general domestic limitations, which would undermine the object and purpose of the entire Covenant (*Kuwait*);
- was particularly concerned at reservations to articles 6 and 7 of the Covenant, which it believed to be incompatible with the object and purpose of the Covenant (*United States of America*);
- strongly recommended that the State party review its remaining reservations, with a view to their eventual withdrawal (*Republic of Korea*);
- stated that a State party should reconsider its reservations with a view to ensuring, insofar as possible, that they were withdrawn (*Luxembourg*);
- found that the continued maintenance of a State party's reservations to certain provisions of the Covenant amounted to a particular factors or difficulties which might impede the effective implementation of the Covenant's provisions by the State party (*Denmark*);
- stated it would have been appreciated if a State party's reasons for the maintenance of certain reservations had been more clearly explained (*Austria*);
- regretted that a State party had not withdrawn its reservations to the Covenant, in particular certain ones, and stated that the State party should reconsider its position on this matter (*Belgium*);
- regretted the decision of the State party not to withdraw any of its reservations under the Covenant (*United Kingdom*);
- regretted that a State party had not withdrawn its reservations to the Covenant and urged its Government to reconsider its position in particular with regard to a certain article (*Belgium*);

- regretted the extent of the State party's reservations, declarations and understandings to the Covenant, believing that that, taken together, they intended to ensure that the State party had accepted only what was already its law (*United States of America*);
- continued to regret the extent of State party's reservations to the Covenant and that it had yet not envisaged withdrawing some of them (*Italy*);
- stated that it found the State party's explanation for its reservation's necessity not persuasive and suggested alternative measures (*Belgium*);
- regretted that a State party had maintained its reservation to an article of the Covenant and called on the State party to withdraw the reservation and bring its domestic law into line with the Covenant (*Congo*);
- regretted the maintenance of a reservation to an article of the Covenant, which did not reflect the Committee's more expansive approach to the article (*Switzerland*);
- continued to be disappointed that the State party had not decided to withdraw any of the reservations entered at its ratification of the Covenant and stated that the State party should continue to consider withdrawal of some or all of the reservations (*Denmark*);
- regretted that a State party maintained its reservations, in particular regarding a non-derogable article and concerning the Optional Protocol which partially limited the substantive competence of the Committee, and stated that the State party should consider withdrawing its reservations (*Germany*);
- regretted the decision of the State party not to withdraw any of the reservations it made at the time of ratification of the Covenant, and recommended that they be reviewed with a view to withdrawing them (*Sweden*);
- regretted that a State party had made a reservation excluding the competence of the Committee under the Optional Protocol with regard to violation of a substantive right of the Covenant (*Germany*);
- remained concerned that the State party had not seen fit to withdraw its reservations to the Covenant (*Switzerland*);
- was concerned about the existence of numerous interpretative declarations and a reservation made by the State party and stated that it should reduce the number of those interpretative declarations (*Monaco*);
- encouraged a State party to review interpretative declarations and a reservation, particularly those that had become or were becoming obsolete and unnecessary in the light of developments that had taken place or were taking place in the State party, especially with regard to certain articles of the Covenant (*Monaco*);

- urged a State party to formally withdraw its reservation (*Guyana*);
- considered that a reservation seriously affected the application of an article of the Covenant and thus remained concerned that certain persons may not enjoy effective protection from a breach of that article (*Hong Kong SAR*);
- noted that the reservations entered by a State party upon ratification of the Covenant with respect to a number of provisions had an adverse effect on the effective implementation of the Covenant. It stated that no convincing reasons had been offered for the reservations to two articles and that, given the actual situation of human rights protection in the State party, some reservations might now have become obsolete (*Malta*);
- recommended that a State party's remaining reservations be reconsidered with a view to their eventual withdrawal (*Iceland*);
- noting a State party's reservations and declarations, invited the State party to review those reservations and declarations with a view to withdrawing them, so as to ensure progress in the implementation of those rights within the context of article 40 of the Covenant (*India*);
- recommended that further action be taken to ensure full implementation of the Covenant in the matter of withdrawal of the State party's remaining reservations to the Covenant (*Ireland*);
- considered the explanation by a State party's delegation for its remaining reservations to remain open to doubt, and stated that the State party should continue to review the possibility of the withdrawal of all its reservations to the Covenant (*Liechtenstein*);
- suggested that a State party's should seriously consider withdrawing its reservation to a certain article, so that the article might be implemented in the spirit of the Covenant. The authorities' attention was drawn inter alia to General Comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant (*Switzerland*);
- suggested that the State party's Government actively study the possibility of withdrawing its general reservation bearing upon a certain article and take other measures with a view to increasing public awareness of the provisions of the Covenant and the Optional Protocol (*Republic of Korea*);
- noted that the reservations entered by a State party upon ratification of the Covenant with respect to a number of provisions had an adverse effect on the full implementation of the Covenant, and stated that consideration ought to be given to the withdrawal of some, or all, of those reservations (*Denmark*);
- noted that there are no particular factors or difficulties that might prevent the effective implementation of the provisions of the Covenant in the State party, with the exception of its maintenance of reservations to certain articles (*Switzerland*);

- found that reservations and declarations made by the State party ratifying the Covenant and consequent non-reporting on many issues related to such reservations and declarations, which might bear directly or indirectly on the enjoyment of Covenant rights, made it difficult to assess fully and comprehensively the situation in regard to human rights in the State party (*France*);
- stated that it would welcome a State party's reconsideration of its reservations and declarations (*France*);
- stated that the State party should finalize its review of reservations relating to an article 10 of the Covenant with a view to withdrawing them at the earliest possible date (*New Zealand*);
- recommended that the State party consider a complete withdrawal of its reservations (*Norway*);
- recommended that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant (*United States of America*);
- recommended that the State party review, with a view to withdrawing, the reservations made upon ratification of the Covenant, particularly those concerning articles 13 and 14 of the Covenant (*Malta*);
- recommended that the State party review its reservations relating to certain articles 10 and 22 of the Covenant with a view to withdrawing them (*New Zealand*);
- recommended that the State party review its reservations with a view to withdrawing the greatest possible number (*Belgium*);
- recommended that the State party review its reservations to the Covenant with a view to withdrawing them (*Malta*);
- invited the State party to review the reservations and interpretative declarations it made upon ratification with a view to withdrawing them as far as possible (*Luxembourg*);
- recommended that the State party's authorities consider amending relevant legislation to enable a withdrawal of the reservation to an article of the Covenant (*United Kingdom*);
- recommended that a careful study of a recently enacted law be undertaken with regard to the scope of a certain article of the Covenant, with a view to withdrawing the reservation made in that connection (*Norway*);
- hoped that the pending legislation relevant to a certain article would be formulated in such a way as to allow the reservation thereunder to be withdrawn (*Iceland*);

Comments with respect to other treaties

On one occasion:

- the Committee recalled that, although several reservations were made by the State party in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant.

Miscellaneous

For many years, the Committee's Annual Report has noted in its initial chapter that reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in the notifications deposited with the Secretary-General. On occasion, it has then proceeded:

(a) to note and welcome withdrawal of a particular reservation, encouraging other States to do likewise (Switzerland, A/59/40 (2004), at 6);

(b) to note a particular withdrawal (Cyprus, A/58/40 (2003) at 6, Belarus, Republic of Korea and United Kingdom (A/48/40 (1993) at 4);

(c) to note with regret that no reservations to the Covenant had been withdrawn during the reporting period and to encourage States parties to consider the possibility of withdrawing reservations to the Covenant (A/57/40 (2002), at 7, and A/56/40 (2001), at 7).

(d) to note generally that in the period under review several reservations had been withdrawn (A/55/40 (2000), at 7).

This section of the Annual Report has also reflected other State party or depositary practice, such as objections to reservations (Botswana, A/57/40 (2002), at 8) or acceptance by the depositary of a modification to a reservation not objected to over a 12 month period (Azerbaijan, A/57/40 (2002), at 9).

Sometime, the Annual Report has reflected other aspects of its approach to reservations. In A/52/40 (1997), at 42, under an item entitled "Links to other human rights treaties and treaty bodies," the Committee observed that other human rights treaties were relevant in the context of reservations. There was particular concern about States that have made reservations to the Convention on the Elimination of All Forms of Discrimination against Women with regard to obligations that they had accepted without reservation under the International Covenant on Civil and Political Rights. The Committee undertook to press such States to clarify their position with regard to the rights at issue, reaffirming that a reservation to another human rights treaty could not in any way diminish the obligations of a State under the Covenant.

A series of reports have detailed the Committee's interaction with the process of the International Law Commission (ILC) on this issue. In A/58/40 (2003), at 27, the Committee referred to its consultations of 31 July 2003 with members of the ILC on the issue of reservations to multilateral treaties. It welcomed the constructive and open dialogue with the ILC and expressed the hope that further consultations on the issue of reservations would be organized.

Earlier reports also detailed the Committee's interaction with the ILC. In A/53/40 (1998), at 2, the Committee recorded that on 24 November 1997, Mr. Alain Pellet, ILC Chairman and Special Rapporteur on reservations, wrote to the Committee's Chairperson to invite it to comment on the ILC's Preliminary Conclusions on Reservations to Normative Multilateral Treaties, including human rights treaties. The Preliminary Conclusions were considered at the sixty-second session in the light of the Committee's General Comment on issues relating to reservations made on ratifications of the Covenant or the Optional Protocol. On 9 April 1998, the Committee decided that the Chairperson would write to Mr. Pellet to inform him of the Committee's first reactions to the Preliminary Conclusions (letter annexed at IX). The letter indicated that the Committee would study the Preliminary Conclusions more carefully and formulate its comments at a later stage. A working group of the Committee had taken up the matter again at the sixty-third session and was preparing a further response for the Committee to consider at its sixty-fourth session.

Thereafter, A/54/40 (1999), at 23, records that on 24 November 1997, Mr. Pellet, wrote to the Committee's Chair to invite the Committee to comment on the Commission's Preliminary Conclusions on Reservations to Normative Multilateral Treaties, including Human Rights Treaties. Following consideration of the Preliminary Conclusions in the light of the Committee's general comment on issues relating to reservations to the Covenant or to the Optional Protocol, the Chairperson sent the Committee's comments to the ILC a letter dated 5 November 1998 (annex VI).

Reports also detail the Committee's evolving work on its General Comment 24, beginning with its adoption of a decision to commence preparatory work on 24 July 1992 (A/47/40 (1992) at 605), through to its later reaffirmation of that decision (A/48/40 (1993), at 758), the commencement and work of a working group on the issue leading up to adoption (A/49/40 (1994), at paragraph 373, and A/50/40 (1995) at 13).

Austria

181. The Committee welcomes the withdrawal by Austria of some of its reservations to the Covenant; it would have been appreciated if the reasons for these withdrawals and the precise nature of their effect, as well as the reasons for the maintenance of the remaining reservations, had been more clearly explained. (A/54/40 (1999)).

Azerbaijan

4. The Committee welcomes the abolition of the death penalty in 1998 as well as the State party's accession to the Second Optional Protocol to the Covenant, though with a reservation relating to wartime. (A/57/40 (2002))

Belgium

7. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant, in particular the reservations to articles 10 and 14.

The State party should reconsider its position on this matter (A/59/40 (2004)).

82. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant and urges the Government to reconsider its position in particular with regard to article 10. The Government's explanation that the reservation is necessary because there is a problem of overcrowding in prisons is not persuasive. In addition, alternative sentences, including to community service, should be encouraged in view of its rehabilitative function (A/54/40 (1999)).

430. Il recommande enfin que l'Etat partie revoie ses réserves afin d'en retirer le plus grand nombre possible (A/47/40 (1992)).

Congo

283. The Committee regrets that the Republic of the Congo has maintained its reservation to article 11 of the Covenant.

284. It calls on the State party to withdraw that reservation, bring articles 386 to 393 of the Code of Civil, Commercial, Administrative and Financial Procedure into line with the Covenant, and make sure that no one is imprisoned for debt (A/55/40 (2000)).

Denmark

10. The Committee continues to be disappointed that Denmark has not decided to withdraw any of the reservations entered at its ratification of the Covenant.

Denmark should continue to consider withdrawal of some or all of the reservations (A/56/40 (2001)).

64. The Committee finds that there are no particular factors or difficulties which may impede the effective implementation of the Covenant's provisions by the Kingdom of Denmark, except for the continued maintenance of Denmark's reservations to certain provisions of the Covenant.

66. The Committee notes that the reservations entered by Denmark upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the full implementation of the Covenant. Consideration ought to be given to the withdrawal of some, or all, of those reservations.

72. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them (A/52/40 (1997)).

France

390. The Committee finds that reservations and declarations made by France when ratifying the Covenant and consequent non-reporting on many issues related to such reservations and declarations, which may bear directly or indirectly on the enjoyment of Covenant rights, make it difficult to assess fully and comprehensively the situation in regard to human rights in France.

414. The Committee recommends that the State party submit its next report in time and that the report include a comprehensive assessment regarding the implementation of provisions of the Covenant, including in particular articles 9 and 14, and particulars of the cultural, religious and linguistic rights of ethnic groups and inhabitants of the Overseas territories. The Committee would welcome reconsideration by France of the reservations and declarations made by it (A/52/40 (1997)).

Gabon

121. The Committee welcomes Gabon's accession without any reservation to various international human rights instruments (A/52/40 (1997)).

Germany

10. The Committee regrets that Germany maintains its reservations, in particular regarding article 15, paragraph 1, of the Covenant, a non-derogable right, and those made when the Optional Protocol was ratified by the State party which partially limits the competence of the Committee with respect to article 26 of the Covenant.

The State party should consider withdrawing its reservations (A/59/40 (2004)).

184. The Committee regrets that Germany has made a reservation excluding the competence of the Committee under the Optional Protocol with regard to violation of rights as protected by article 26 of the Covenant (A/52/40 (1997)).

Guinea

516. It was also asked whether Guinea intended to maintain its reservation to article 48, paragraph 1, of the Covenant and accede to the Optional Protocol (A/48/40 (1993)).

Guyana

357. The State party is urged to implement fully the Committee's Views in communication No. 676/1996 and to formally withdraw its reservation made on its reaccession to the Optional Protocol. The State party should consider adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol (A/55/40 (2000)).

Hong Kong (Special Administrative Region)

245. In the light of the fact that the Covenant is applied in HKSAR subject to a reservation that seriously affects the application of article 13 in relation to decision-making procedures in deportation cases, the Committee remains concerned that persons facing a risk of imposition of the death penalty or of torture, or inhuman, cruel or degrading treatment as a consequence of their deportation from HKSAR may not enjoy effective protection (A/55/40 (2000)).

65. The Committee is aware of the reservation made by the United Kingdom that article 25 of the Covenant does not require establishment of an elected executive or legislative council. However, it takes the view that once an elected legislative council is established, its election

must conform to article 25. The Committee considers that the electoral system in Hong Kong does not meet the requirements of article 25, or of articles 2, 3 and 26 of the Covenant. It underscores in particular the fact that only 20 of 60 seats in the Legislative Council are subject to direct popular election and that the concept of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. That clearly constitutes a violation of article 2, paragraph 1 and articles 25 (b) and 26 (A/51/40 (1996)).

Hungary

651. Some members of the Committee suggested that the general reservation entered by Hungary upon ratifying the Covenant should be withdrawn. They also noted that certain provisions of the Covenant had not been given constitutional status but as yet had only the force of law (A/48/40 (1993)).

Iceland

57. The Committee welcomes the fact that Iceland has withdrawn its reservation to articles 8, paragraph 3 (a), and 13 of the Covenant.

61. While noting that the European Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into Icelandic law, the Committee emphasizes that a number of articles of the Covenant, including articles 3, 4, 12, 22, 24, 25, 26 and 27, go beyond the provisions of the European Convention.

The Committee therefore encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law. The Committee recommends that the remaining reservations to the Covenant be reconsidered with a view to their eventual withdrawal (A/54/40 (1999)).

77. The Committee hopes that the pending legislation relevant to article 13 will be formulated in such a way as to allow the reservation thereunder to be withdrawn.

81. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them (A/49/40 (1994)).

India

429. The Committee, noting the reservations and declarations made by the Government of India to articles 1, 9, 12, 13, 19, paragraph 3, and 21 and 22 of the Covenant, invites the State party to review those reservations and declarations with a view to withdrawing them, so as to ensure progress in the implementation of those rights within the context of article 40 of the Covenant.

439. The Committee regrets that the use of special powers of detention remains widespread. While noting the State party's reservation to article 9 of the Covenant, the Committee considers that that reservation does not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee is also of the view that preventive detention is a restriction on liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be

considered as a determination falling within the meaning of article 14, paragraph 1, of the Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision. The Committee recommends that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal, constituted and operating in accordance with article 14, paragraph 1, of the Covenant. It further recommends, at the very least, that a central register of detainees under preventive detention laws be maintained and that the State party accept the admission of the International Committee of the Red Cross and Red Crescent to all types of detention facilities, particularly in areas of conflict (A/52/40 (1997)).

Ireland

425. The Committee notes with appreciation the increased use of the Covenant by the courts as an aid to the interpretation of common law and constitutional rights, and the withdrawal of several reservations made upon ratification of the Covenant.

450. The Committee recommends that further action be taken to ensure full implementation of the Covenant in these matters:

- (a) Withdrawal of the remaining reservations to the Covenant (A/55/40 (2000)).

580. Members also welcomed the recent adherence of Ireland to the Second Optional Protocol, aiming at the abolition of the death penalty and the withdrawal of its reservation concerning article 6 of the Covenant.

596. The Committee welcomes the adherence of Ireland to the Optional Protocol, the withdrawal of its reservation regarding the death penalty and its subsequent adherence to the Second Optional Protocol, aiming at the abolition of the death penalty, as well as the announcement that legislative preparations are under way in Ireland with a view to acceding to other major human rights instruments (A/48/40 (1993)).

Italy

276. The Committee continues to regret the extent of State party's reservations to the Covenant and that it has yet not envisaged withdrawing some of them.

282. The Committee recommends that the State party review its reservations to the Covenant with a view to withdrawing them (A/49/40 (1994)).

Kuwait

456. The Committee, referring to its General Comment No. 24 on reservations, notes that the "interpretative declarations" of the State party regarding article 2, paragraph 1, article 3, and article 23, as well as the "reservations" concerning article 25 (b) of the Covenant raise the serious issue of their compatibility with the object and purpose of the Covenant. In particular, the Committee notes that articles 2 and 3 of the Covenant constitute core rights and overarching

principles of international law that cannot be subject to “limits set by Kuwaiti law”. Such broad and general limitations would undermine the object and purpose of the entire Covenant.

457. The Committee finds that the interpretative declaration regarding articles 2 and 3 contravenes the State party’s essential obligations under the Covenant and is therefore without legal effect and does not affect the powers of the Committee. The State party is urged to withdraw formally both the interpretative declarations and the reservations (A/55/40 (2000)).

Liechtenstein

5. While the Committee notes and welcomes the delegation’s statement on the probable withdrawal of some of the State party’s reservations to the Covenant, that statement as well as the explanation for the remaining reservations remain open to doubt.

The State party should continue to review the possibility of the withdrawal of all its reservations to the Covenant (A/59/40 (2004)).

Luxembourg

4. The Committee takes note of the Luxembourg delegation’s comments on the limited, or even theoretical, scope of the reservations formulated by the State party to various provisions of the Covenant.

The State party should reconsider its reservations with a view to ensuring, insofar as possible, that they are withdrawn A/58/40 (2003).

145. The Committee also invites the State party to review the reservations and interpretative declarations it made upon ratification with a view to withdrawing them as far as possible (A/48/40 (1993)).

Macau

311. The Committee notes that given the late extension of the Covenant to Macau, the Sino-Portuguese Joint Declaration and Exchange of Memoranda of 13 April 1987 does not refer to it and merely states that the laws currently in force in Macau will remain basically unchanged and that all rights and freedoms of the inhabitants and other persons in Macau, including the rights of the person, freedom of speech, of the press, of assembly, of association, of travel and of movement, the right to strike, the choice of occupation, to undertake academic research, freedom of religion and belief and of communication and the right to own property will be ensured by law in the Macau Special Administrative Region. That was followed by a Memorandum of Understanding between the People’s Republic of China and the Government of Portugal, signed by their respective Ambassadors, for extension of the Covenant to Macau with reservations, and thereafter by resolution 41/92 of the Assembly of the Portuguese Republic of 31 December 1992, stipulating that the provisions of the Covenant were extended to Macau with certain reservations, particularly in regard to article 12, paragraphs 4 and 13. The Committee notes that article 40 of the Basic Law of the Macau Special Administrative Region of the People’s Republic of China, adopted by the People’s Congress on 31 March 1993, states that the provisions of the Covenant shall continue in force after 19 December 1999 and shall be implemented through the laws of the Macau Special Administrative Region (A/52/40 (1997)).

Malta

126. The Committee notes that the reservations entered by Malta upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the effective implementation of the Covenant. No convincing reasons have been offered for the reservations to articles 13 and 14, paragraph 6. Additionally, given the actual situation of human rights protection in Malta, some reservations may now have become obsolete.

129. The Committee also recommends that the Government review, with a view to withdrawing, the reservations made upon ratification of the Covenant, particularly those concerning articles 13 and 14 of the Covenant (A/49/40 (1994)).

Monaco

4. The Committee is concerned about the existence of six interpretative declarations and one reservation made by the State party when ratifying the Covenant.

The State party should reduce the number of those interpretative declarations. The Committee encourages it to review them, particularly those that have become or are becoming obsolete and unnecessary in the light of developments that have taken place or are taking place in the State party, especially with regard to articles 13, 14, 19 and 25 (c), of the Covenant (A/56/40 (2001)).

Morocco

118. The Committee emphasizes the need for the Government to prevent and eliminate discriminatory attitudes and prejudices towards women and to revise domestic legislation to bring it into conformity with articles 2, 3 and 23 of the Covenant, taking into account the recommendations contained in the Committee's general comments Nos. 4, 18 and 19. It recalls in that regard that, although several reservations were made by Morocco in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant (A/50/40 (1995)).

New Zealand

15. The State party should finalize its review of its reservations relating to article 10 of the Covenant with a view to withdrawing them at the earliest possible date (A/57/40 (2002)).

190. The Committee recommends that the State party review its reservations relating to articles 10 and 22 of the Covenant with a view to withdrawing them (A/54/40 (1995)).

Norway

77. The Committee welcomes the partial withdrawal of the reservation to article 14, paragraph 5, but recommends that the State party consider a complete withdrawal. (A/55/40 (2000)).

88. ... While noting that it is still not possible to appeal against the reversal by the Court of Appeal of an acquittal by a lower jurisdiction, the Committee also appreciates the efforts made towards the withdrawal of Norway's reservation in connection with article 14, paragraph 5, of the Covenant.

96. The Committee recommends that a careful study of the recently enacted amendment to the Criminal Procedure Act be undertaken with regard to the scope of article 14, paragraph 5, of the Covenant, with a view to withdrawing the reservation made in that connection (A/49/40 (1994)).

Paraguay

196. The Committee also commends the State party for ratifying the Covenant without entering any reservations (A/54/40 (1995)).

Republic of Korea

153. The Committee welcomes the withdrawal by the State party of its reservations on articles 23, paragraph 4, and 14, paragraph 7. It strongly recommends that the State party review the remaining reservations on articles 14, paragraph 5, and 22 with a view to their eventual withdrawal (A/55/40 (2000)).

512. Le Comité note également avec satisfaction que la République de Corée étudie actuellement la possibilité de lever les réserves qu'elle avait faites à l'égard du Pacte.

518. Enfin, le Comité suggère que le gouvernement de l'Etat partie étudie activement la possibilité de lever sa réserve générale touchant l'article 14 et prenne d'autres mesures en vue de mieux faire connaître à son opinion publique les dispositions du Pacte et du Protocole facultatif (A/47/40 (1992)).

Sweden

83. The Committee regrets the decision of the State party not to withdraw any of the reservations it made at the time of ratification of the Covenant.

93. The Committee recommends that the reservations made to the Covenant be reviewed with a view to withdrawing them (A/51/40 (1996)).

Switzerland

5. The Committee remains concerned that the State party has not seen fit to withdraw its reservations to the Covenant. It notes the mandate given to the federal administration to examine the question of the removal of reservations to human rights treaties and hopes that by the time the next report is considered all reservations to the Covenant will have been withdrawn (A/57/40 (2002)).

88. The Committee notes that there are no particular factors or difficulties that might prevent the effective implementation of the provisions of the Covenant in Switzerland, with the exception of the maintenance by Switzerland of its reservations to certain articles.

90. The Committee welcomes the withdrawal of the reservation made by Switzerland to article 20, paragraph 2, of the Covenant and notes that the withdrawal of Switzerland's reservations to article 14, paragraphs 1, 3 (d) and (f), and 5, is currently under consideration by the Federal Council.

96. The Committee regrets the maintenance of Switzerland's reservation to article 26 of the Covenant, which limits the applicability of the principle of the equality of all persons before the law and of the prohibition of discrimination to only those rights which are contained in the Covenant, whereas article 26 of the Covenant, as interpreted by the Committee, extends it to every area regulated and protected by the public authorities.

106. The Committee suggests that the authorities should seriously consider withdrawing the reservation made by Switzerland to article 26 of the Covenant, so that the article may be implemented, in the spirit of the Covenant, as an autonomous right guaranteeing non-discrimination in all spheres regulated and protected by the State. The authorities' attention is drawn to General Comment No. 18 (37) on non-discrimination and to General Comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant (A/52/40 (1997)).

United Kingdom of Great Britain and Northern Ireland

35. The Committee is concerned at the mixing of accused and convicted prisoners, especially since St. Helena is not one of the overseas territories to which a reservation to article 10, paragraph 2 (a), of the Covenant has been applied.

The State party should ensure that accused and convicted prisoners are appropriately segregated (A/57/40 (2002)).

301. The Committee welcomes the withdrawal on 2 February 1993 of the State party's reservation to subparagraph (c) of article 25 which, inter alia, applied to jury service in the Isle of Man.

308. The Committee recommends that the authorities in Jersey consider amending relevant legislation to enable a withdrawal of the reservation to article 11 of the Covenant.

312. With reference to the withdrawal of the State party's reservation to article 25, the Committee urges the authorities to introduce further reforms that secure all their inhabitants full right of participation in the conduct of public affairs (A/55/40 (2000)).

417. The Committee also regrets the decision of the State party not to withdraw any of its reservations under the Covenant.

428. The State party is recommended to review the reservations which it has made to the Covenant (A/50/40 (1995)).

United States of America

277. The Committee further notes with satisfaction the assurances of the Government that its declaration regarding the federal system is not a reservation and is not intended to affect the international obligations of the United States.

279. The Committee regrets the extent of the State party's reservations, declarations and understandings to the Covenant. It believes that, taken together, they intended to ensure that the United States has accepted only what is already the law of the United States. The Committee is also particularly concerned at reservations to article 6, paragraph 5, and article 7 of the Covenant, which it believes to be incompatible with the object and purpose of the Covenant.

292. The Committee recommends that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant (A/54/40 (1995)).

C. Committee on Economic, Social and Cultural Rights

Positive remarks

On one occasion the Committee:

- welcomed a State party's adherence without reservations (*Zimbabwe*);
- warmly welcomed a withdrawal of reservations (*Hong Kong SAR*);
- welcomed a State party's statement that it was in the process of reviewing human rights treaty reservations, with a view to withdrawing those superseded by legislation or practice (*United Kingdom*).

Neutral remarks

On one occasion the Committee,

- noted a State party's statement of intent to withdraw a reservation (*New Zealand*);
- took note of the fact that a State party had maintained a reservation (*Sweden*);
- was concerned that a practice contravened a provision, while noting that the State party had made a reservation (*Japan*).

Critical remarks

On five occasions, the Committee recommended withdrawal *simpliciter* of a reservation (*Congo, Hong Kong SAR, France, Sweden, Trinidad and Tobago*).

On one occasion the Committee,

- was particularly concerned that a State party had no intention of withdrawing reservations, based on the argument that the State party had to a large extent already achieved realization of those rights, whereas information received by the Committee revealed that full realization of those rights was not yet guaranteed (*Japan*);
- encouraged a State party to withdraw a reservation to the Covenant (*New Zealand*);
- urged a State party to consider withdrawal of reservations (*Japan*);
- encouraged a State party to withdraw reservations that had become redundant (*United Kingdom*);
- encouraged the State party to carry out its intention to withdraw a reservation (*Netherlands*);
- regretted the absence of plans to withdraw a reservation (*Mexico*). It then went on to call upon a State party to comply with its obligations under the article in question and to withdraw its reservation under that article;
- stated that when a State party had ratified the Covenant without making any reservations, it was obliged to comply with all the provisions of the Covenant (*Morocco*).

Miscellaneous issues

The Committee examined issues of reservations in the context of its discussion of a draft Optional Protocol for the Covenant (see E/1997/22 (1996), at paragraph 56).

Congo

214. It also recommends that the State party withdraw its reservation to article 13, paragraphs 3 and 4, of the Covenant (E/2001/22 (2000)).

France

874. The Committee recommends that the State party withdraw its reservation with regard to article 27 of the International Covenant on Civil and Political Rights and that it ratify the Framework Convention on the Protection of National Minorities, as well as the European Charter for Regional and Minority Languages, signed by State members of the Council of Europe in 1995 and 1992, respectively (E/2002/22 (2001)).

Hong Kong Special Administrative Region

166. The Committee warmly welcomes the withdrawal by the Hong Kong Special Administrative Region of reservations to articles 1 and 7 of the Covenant.

191. The Committee recommends that the Hong Kong Special Administrative Region withdraw its reservation on article 6 of the Covenant and the interpretative declaration replacing its former reservation on article 8 (E/2002/22 (2001)).

Japan

590. The Committee is particularly concerned that the State party has no intention of withdrawing its reservations to articles 7 (*d*), 8, paragraph 2, and article 13, paragraph 2 (*b*) and (*c*), of the Covenant, based on the argument that the State party has to a large extent already achieved realization of the rights enshrined in the aforementioned articles, whereas information received by the Committee reveals that full realization of those rights is not yet guaranteed.

600. This contravenes article 8, paragraph 2, of the Covenant (to which the State party has made a reservation), and ILO Convention No. 87 (1948) concerning freedom of association and protection of the right to organize, despite the existence of alternative systems of personnel committees.

613. The Committee urges the State party to consider the withdrawal of its reservations to articles 7 (*d*), 8, paragraph 2, and article 13, paragraph 2 (*b*) and (*c*) of the Covenant (E/2002/22 (2001)).

Mexico

385. The Committee also regrets the absence of plans to withdraw the State party's reservation to article 8 of the Covenant, although the right to form trade unions and the right to strike are enshrined in the Mexican Constitution and in the corresponding regulatory laws.

401. The Committee calls upon the State party to comply with its obligations under article 8 of the Covenant and to withdraw its reservation made under that article (E/2000/22 (1999)).

Morocco

109. Other difficulties noted by the Committee relate to the contradiction between the obligations set forth under the Covenant and various provisions relating to the civil law status governed by the Code of Personal Status which is partly based on religious precepts and falls within the King's competence. The Committee considers that when a State has ratified the Covenant without making any reservations, it is obliged to comply with all of the provisions of the Covenant. It may therefore not invoke any reasons or circumstances to justify the non-application of one or more articles of the Covenant, except in accordance with the provisions of the Covenant and the principles of general international law (E/1995/22 (1994)).

Netherlands May 1998

174. The Committee welcomes the Government's intention to withdraw the reservation it entered in the Covenant concerning the right to strike.

225. The Committee encourages the Government to carry out its intention to withdraw its reservation to the Covenant concerning the right to strike (E/1999/22 (1998)).

New Zealand

181. The Committee also notes the statement made by the State party that it intends to withdraw its reservation under article 10, paragraph 2, of the Covenant.

198. The Committee encourages the State party to ratify ILO Conventions Nos. 87 (1948), 117 (1962) and 118 (1962) and to withdraw its reservation to article 8 of the Covenant (E/2004/22 (2003)).

Sweden

728. The Committee takes note that the State party has maintained its reservation with regard to article 7 (d) of the Covenant concerning the right to remuneration for public holidays.

739. The Committee recommends that the State party withdraw its reservation to article 7 (d) of the Covenant (E/2002/22 (2001)).

Trinidad and Tobago

283. The Committee recommends that the State party ratify the ILO conventions relevant to economic, social and cultural rights and that it withdraw its reservation to article 8 of the Covenant. In addition, the Committee notes with interest the State party's declaration that it will reconsider its position regarding the denunciation of human rights instruments (E/2003/22 (2002)).

United Kingdom of Great Britain and Northern Ireland

212. The Committee also welcomes the delegation's statement that the State party is currently in the process of reviewing its reservations to international human rights instruments, with a view to withdrawing those that have been superseded by legislation or practice.

246. The Committee encourages the State party to withdraw its reservations to the Covenant that have become redundant (E/2003/22 (2002)).

Zimbabwe

67. The Committee welcomes the fact that Zimbabwe adhered to the Covenant without any reservations (E/1998/22 (1997)).

D. Committee on the Elimination of Discrimination against Women

Positive remarks

On twenty-four occasions, the Committee commended, welcomed or expressed its appreciation to a State party for ratifying the Convention without reservations (*Burundi, Kazakhstan, Uzbekistan, Myanmar, Democratic Republic of the Congo, Cameroon, Moldova, Lithuania, Kyrgyzstan, Azerbaijan, Croatia, Zimbabwe, Czech Republic, St. Vincent and the*

Grenadines, Antigua and Barbuda, Armenia, Namibia, Ethiopia, Bolivia, Chile, Uganda, Peru, Norway, Guyana).

On six occasions the Committee:

- commended/noted with appreciation fact of ratification of the Convention without reservations (*Guatemala, Kenya, Guyana, Netherlands, Nicaragua, Sweden*).

On three occasions the Committee:

- commended a State party for withdrawing its reservation/s (*Fiji, Jamaica, Liechtenstein*);
- commended a State party for placing objections to those reservations that are incompatible with the object and purpose of the Convention (*Finland, Netherlands, Sweden*).

On two occasions the Committee:

- welcomed the commitment/intention to withdraw reservations (*Turkey, Belgium*);
- particularly commended efforts to withdraw certain reservations/expresses great satisfaction with the withdrawal of reservations (*Thailand, Mauritius*).

On one occasion the Committee:

- commended a State party for announcing its intention to withdraw a reservation (*Austria*);
- welcomed the imminent withdrawal of a reservation. At same time appeals to State party to make efforts to withdraw other reservation. (*Austria*);
- welcomed the willingness of a State party to review its reservations (*Algeria*);
- welcomed information on new legislation that will allow for withdrawal of a State party's reservations (*Turkey*);
- commended the Government for withdrawing some of its reservations and encourages it to continue its efforts to withdraw the remaining reservations (*Thailand*);
- commended the State party for ratifying the Convention without reservation demonstrated the Government's commitment to achieving equality for women in public and private life (*Barbados*).

Neutral remarks

On one occasion the Committee:

- appealed to the Government to make efforts to withdraw a reservation (*Austria*);
- noted that a State party intends to evaluate its reservation (*Germany*);
- noted that a State party committed itself to withdrawing certain articles of the Convention (*Turkey*);
- noted the fact that a Government intended to uphold its reservation concerning article 29 (*Cuba*).

Critical remarks

On six occasions the Committee:

- noted that the reservations to particular articles impede full implementation/are obstacles to the Convention's full implementation/seriously hinder implementation/are serious impediments to the full implementation (*Singapore, Algeria, Morocco, Turkey, Luxembourg, Australia*);
- expressed its concern with/noted with concern the reservations entered into by the State party (*Maldives, Jordan, Cyprus, Tunisia, Australia, Bangladesh*).

On three occasions the Committee:

- considered reservations to certain articles to be contrary to the object and purpose of the Convention and should be reviewed modified and/ withdrawn (*Morocco, Iraq, Egypt*).
- urged a State party to withdraw its reservations and to repeal/revoke legislation (*Maldives, Jordan, Tunisia*).

On two occasions the Committee:

- noted with concern the number and/ importance of reservations entered into by a State party (*China, Morocco*);
- noted its particular concern with respect to certain reservations (*China, Morocco*);
- reiterated its concern at/with the continued existence of the reservations of the State party (*Algeria, Thailand*);
- urged the State party to expedite the steps necessary for withdrawal of its reservations (*Algeria, Egypt*).

On one occasion the Committee:

- urged a State party to continue its efforts to withdraw its reservations (*Australia*);

- expressed its concern with the reservations and encouraged withdrawal (*Republic of Korea*);
- suggested that the Government review its reservations with the intention of withdrawing them, particularly that entered to paid maternity leave. It found it difficult to understand why paid maternity leave had not been implemented in working life (*New Zealand*);
- expressed its concern that a State party explicitly ruled out the possibility of withdrawal of its reservations, as well as its concern that the justification of those reservations was based on a desire to ensure consistency with Islamic Sharia (*Iraq*);
- strongly suggested the introduction of steps towards the removal of its reservations and requested the Government to keep it informed of developments (*Luxembourg*);
- urged a State party to review and re-examine regularly its reservations and amend laws that are incompatible with the Convention (*China*);
- noted with regret that a State party did not envisage withdrawing any of its reservations (*Morocco*);
- expressed its concern that the combination of reservations to certain articles left no room for evolving concepts of Islamic law (*Morocco*);
- was deeply concerned at a State party's reservations (*Turkey*);
- considered that the State party's reservations impeded full implementation of the Convention. It expressed deep concern regarding the reservations. It clarified the fact that articles 2 and 16 are the very essence of obligations under the Convention. It urged the State party to continue its process of reform in consultation with members of different ethnic and religious groups, including women. It recommended that the State party study reforms in other countries with similar legal traditions with a view to reviewing and reforming personal laws so that they conform with the Convention, and withdrawing these reservations. It urged the State party to further amend its legislation and to withdraw its reservations (*Singapore*);
- noted its particular concern with the language of a declaration of a State party which seemed to close the door on any future revisions of national legislation, and expressed the hope that the reservations and declarations would be withdrawn in the near future (*Tunisia*);
- regretted that a State party maintained its reservations (*Israel*);
- while appreciating efforts to withdraw its reservations, expressed its concern that these reservations have been retained (*Egypt*);

- while noted with appreciation that Yemen had not made any substantial reservations to the Convention, asked whether the Government could consider withdrawing its reservation (*Yemen*);
- while congratulating Ecuador on having ratified the Convention without any reservation, noted that not all legislation had been brought into line with the Convention (*Ecuador*);
- expressed concern that notwithstanding a State party's stated commitment to do so no further progress has been made in withdrawing its reservations. It expressed its concern at the lack of governmental commitment to working towards a situation that would allow for withdrawal. It urged the Government to take action to make the necessary Constitutional amendments and aware-ness raising to enable withdrawal (*Luxembourg*);
- urged the State party to review its reservations (*Jordan*);
- expressed the hope that a Government would progressively withdraw its reservations (*Morocco*);
- expressed concern at the State party's declaration of a general reservation on ratifying the Convention and considered it to be incompatible with the Convention's purpose and objective. It recommended that the State party take all the necessary measures to reconsider the general reservation entered on its ratification of the Convention (*Libyan Arab Jamahiriya*);
- expressed concern at the resistance to the legal reform necessary for the purposes of withdrawal (*Turkey*);
- found it difficult to understand why greater efforts had not been made to address certain reservations (*Luxembourg*);
- while commending the political determination of Iraq to improve the status of women in the process of modernization, questioned how progress could be achieved if the reservations to the Convention were maintained (*Iraq*).

Miscellaneous

CEDAW has adopted two General Recommendations on Reservations, in 1987 (General Comment 4), and 1992, the latter in the context of the World Conference on Human Rights in 1993 (General Comment 20). It also considers reservations in its General Comments on articles 7 and 8 (General Comment 23 (1997)) and articles 9, 15 and 16 (General Comment 21 (1994)).

On 25 March 1986, States parties to the Convention had an exchange of views on the question of reservations, and adopted a decision in which they urged full respect for the article 28, paragraph 2, of the Convention and requested the Secretary-General to seek the views

of States parties on the question of reservations to the Convention that could be considered within the scope of article 28, paragraph 2, and to include those views in the report on the status of the Convention to the General Assembly at its forty-first session. Of the 87 States parties at the time, 17 replied (A/41/608). This report was considered at the forty-first session of the General Assembly, in which a number of States expressed their concern about the reservations made, and suggestions were made that States do not fully understand the nature of the obligations contained in the Convention (A/C.3/41/SR.24, A/C.3/41/SR.25, A/C.3/41/SR.27, A/C.3/41/SR.29, A/C.3/41/SR.30)

In its Annual Reports, under the section “Matters Brought to the Attention of States Parties”, the Committee considered the issue of reservations on numerous occasions, in particular in the context of the World Conference on Human Rights (1993) (A/48/38), and in response to the request by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to seek its views on the desirability of obtaining an advisory opinion on the validity and legal effect of reservations to the Convention. It decided, *inter alia*, that it should support the steps taken in common with other treaty bodies to seek such an opinion (A/48/38). On several occasions under this section, the Committee has expressed its concern over reservations (A/49/38) and has amended its guidelines for the preparation of initial and subsequent periodic reports to include a section indicating how the Committee would like States parties to report on their reservations (A/57/38, Part 2).

In its ‘Contribution to International Conferences,’ the Committee has considered reservations, *inter alia*, with respect to the Fourth World Conference on Women (A/49/38) and included in this section its statement on the Elimination of Discrimination against Women on the occasion of the 10-year review and appraisal of the Beijing Declaration and Platform for Action, in which it expressed its continuing concern about the significant number of reservations to the Convention, many of which are broad-based and must be considered to be incompatible with the object and purpose of the Convention. It also congratulated all those States that have withdrawn or modified their reservations to the Convention since the Fourth World Conference on Women, as called for in the Platform for Action, and urged all those States that continue to maintain reservations to work towards their withdrawal.” (A/60/38) Under the section “Action taken by the Committee under agenda item 7”, the Committee set out its contribution to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in which it called for, *inter alia*, the revision of the substantive reservations to the Convention with the aim of their possible withdrawal (A/56/38).

In its Annual Report A/50/38, the Committee decided that it would examine reservations made by particular States parties in terms of whether the State party has made the same reservations in relation to other conventions. In its Annual Report A/53/48, the CEDAW included a statement on reservations which it wished to bring to the attention of States parties as its contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

Reports were prepared by the Secretariat at the request of the Committee on the issue of reservations. In connection with its consideration of ways and means of expediting the work of the Committee, at its fifteenth session held in January 1996, the Committee was provided with information on reservations, *inter alia*, a review of “what United Nations conferences have said about reservations to the Convention” and “of comments made by women human rights

non-governmental organizations concerning reservations” (CEDAW/C/1997/4). At its twenty-fourth session, held between 15 January and 2 February 2001, the Committee was provided with a report on its concluding comments on the reports of States parties to the Convention and on the practices of other human rights treaty bodies on reservations to human rights treaties (CEDAW/C/2001/II/4).

Algeria

The Committee also notes that the reservations of the State party to articles 2, 9, paragraph 2, 15, paragraph 4, and 16 are obstacles to the Convention’s full implementation.

The Committee reiterates its concern at the reservations to the Convention entered by the State party.

The Committee urges the State party to expedite the steps necessary for withdrawal of its reservations.

The Committee welcomes the willingness of the Government of Algeria to review reservations to the Convention in the light of the evolution of Algerian society (A/54/38/Rev.1).

Antigua and Barbuda

The Committee welcomed the fact that Antigua and Barbuda had ratified the Convention without reservations (A/52/38/Rev.1).

Armenia

The Committee welcomed the presentation by the Government of Armenia and commended it on its ratification of the Convention without reservations so soon after independence in 1991 and on the timely submission of the initial report, which contained detailed information about the implementation of the Convention in accordance with the Committee’s guidelines. It expressed its appreciation of the willingness of the representatives of Armenia to engage in an open, candid constructive dialogue with the Committee (A/52/38/Rev.1).

Australia

The Committee noted that the changing role of government in terms of public expenditure and the ongoing decentralization of responsibility in a number of areas, including health, from the federal to territorial or state Governments, had had an impact on the legal and practical implementation of the Convention. Australia continued to have two reservations to the Convention, one with regard to paid maternity leave and one with regard to “combat-related” employment in the armed forces, which constituted an obstacle to the full implementation of the Convention.

The Committee noted with concern that new legislation on industrial relations providing for the negotiation of individual contracts between employer and employee might have a disproportionately negative impact on women. Part-time and casual workers, of whom women

formed a disproportionate share, were usually in a weaker position than other workers to negotiate favourable working agreements, in particular with regard to benefits. The reservation to the Convention with regard to paid maternity leave, and Australia's non-ratification of ILO Convention No. 103 concerning maternity protection, remained a concern for women workers with family responsibilities (A/52/38/Rev.1).

The Committee also decided on an exceptional basis that it would complete the concluding comments that had been deferred from its thirteenth session to its fourteenth session (A/49/38).

The Committee, however, expresses its concern about reservations which the Government made when ratifying the Convention. Although there have been some developments in this area, the Committee is particularly concerned about the reservations on paid maternity leave. The Committee urges the Government to continue its efforts to withdraw its reservations (A/50/38).

Austria

The Committee commends the Government for announcing its intention to accept the amendment to article 20, paragraph 1, of the Convention in respect of the time of meetings of the Committee. It also welcomes the imminent withdrawal of the reservation to article 7 of the Convention in respect of women and the military. At the same time, it appeals to the Government to make efforts also to withdraw the reservation to article 11 of the Convention in respect of night work (A/55/38).

Azerbaijan

The Committee expresses its appreciation to the Government of Azerbaijan for ratifying the Convention without reservations after the proclamation of its independence (A/53/38/Rev.1).

Bangladesh

Members of the Committee expressed their concern over the reservations made on article 2, article 13 (a) and article 16, paragraph 1 (c) and (f), of the Convention (A/48/38).

Barbados

That Barbados had ratified the Convention without reservation demonstrated the Government's commitment to achieving equality for women in public and private life (Combined second and third periodic reports, A/49/38).

Belgium

The Committee welcomed with appreciation Belgium's intention to withdraw its reservations to article 7, section (b), with respect to royal functions, and on article 15, with respect to matrimonial property of rural women (A/51/38).

Bolivia

.... [Members] commended the fact that Bolivia had ratified the Convention without entering reservations (A/50/38).

Burundi

The Committee commends the Government of Burundi for ratifying the Convention without reservations in 1991 (A/56/38).

Cameroon

The Committee commends the Government of Cameroon for ratifying the Convention without reservation (A/55/38).

Cyprus

The Committee noted with concern the reservation of the Government as to the exclusion of women from the military (A/51/38).

Chile

.... They noted with satisfaction that Chile had ratified the Convention without reservations (A/50/38).

China

The Committee notes with concern that China has entered seven reservations and declarations in respect of the provisions of the Convention as applied to Hong Kong. Of particular concern is the reservation exempting “the affairs of religious denominations or orders” from the scope of the Convention.

The Committee encourages the Government to review regularly the reservations entered to the Convention. It urges the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encourages the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encourages the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity, which might well be in accordance with articles 4, paragraph 1, and 11, paragraph 2, of the Convention, as well as that regarding religious denominations (A/54/38/Rev.1).

Croatia

The Committee congratulates the Government of Croatia for ratifying the Convention without reservations and notes with satisfaction that the country’s initial report followed the guidelines and presents comprehensive data on the situation of women in Croatia (A/53/38/Rev.1).

Cuba

The Committee noted the fact that the Government intended to uphold its reservation concerning article 29. The Committee was concerned about the elimination of certain areas of progress for women owing to the embargo and the subsequent economic constraints (A/51/38).

Czech Republic

The Committee congratulates the Government for ratifying the Convention without reservations (A/54/38/Rev.1).

Democratic Republic of the Congo

The Committee expresses its appreciation to the Government of the Democratic Republic of the Congo for ratifying the Convention in 1985 without reservations (A/55/38).

Ecuador

While congratulating Ecuador on having ratified the Convention on 9 November 1981 without any reservation, the experts of the Committee noted that not all legislation had been brought into line with the Convention (A/49/38).

Ethiopia

.... The Committee also appreciated the fact that Ethiopia had ratified the Convention as well as several other international human rights instruments and had accepted the Beijing Declaration and Platform for Action without reservation (A/51/38).

Egypt

While appreciating the efforts of the National Council for Women to encourage the Government to withdraw its reservations to articles 2 and 9, paragraph 2, and article 16 of the Convention, the Committee expresses its concern that these reservations entered by the State party upon ratification have been retained.

The Committee urges the State party to expedite the steps necessary for the withdrawal of its reservations and in that regard draws its attention to the Committee's statement on reservations in its report on its nineteenth session⁸ and, in particular, its view that articles 2 and 16 are central to the object and purpose of the Convention and that, in accordance with article 28, paragraph 2, they should be withdrawn (A/56/38).

Finland

The Committee also commends the Government for placing objections to those reservations that are incompatible with the object and purpose of the Convention (A/56/38).

Germany

The Committee notes that the Government, in assessing the implication of a decision of the European Court of Justice concerning the role of women in the German armed forces, will evaluate its reservation to article 7, subparagraph b, of the Convention (A/55/38).

Guyana

[Members] recalled that Guyana had demonstrated a long commitment to the Convention and was among the first Member States to sign and ratify the Convention without reservation.

The Committee commended the Government of Guyana for ratifying the Convention without reservation (A/50/38).

Guatemala

The Committee commended the Government of Guatemala for having ratified the Convention without reservations (A/49/38).

Iraq

The Committee is concerned that the State party explicitly ruled out the possibility of withdrawal of its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16. The Committee expresses its concern at the State party's justification of those reservations as being based on its desire to apply the provisions of the Convention in a manner consistent with Islamic Sharia. In that regard, the Committee draws the attention of the State party to its statement on reservations (see A/53/38/Rev.1, part two, chap. I), and in particular its view that articles 2 and 16 are central to the object and purpose of the Convention, and that, in accordance with article 28, paragraph 2, reservations should be reviewed and modified or withdrawn.

The Committee is also concerned that Iraq's nationality law, which is based on the principle that the members of a family should all have the same nationality and that none should have dual nationality or lose their nationality, does not grant women an independent right to acquire, change or retain their nationality or to pass it on to their children.

The Committee recommends that the Government of Iraq review its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16, in the light of the Committee's statement on reservations, assess the justifications for those reservations and modify or withdraw them as soon as possible to ensure full implementation of the Convention (A/55/38).

Members commended the political determination of Iraq to improve the status of women in the process of modernization; however, they questioned how progress could be achieved if the reservations to the Convention were maintained (A/48/38).

Israel

The Committee regretted the fact that Israel had maintained its reservations to articles 7 (b) and 16 of the Convention. It also regretted the fact that women could not become religious

judges and that the religious laws that to a considerable degree govern family relations discriminated against women.

The Committee regretted the fact that Israel had maintained its reservations to articles 7 (b) and 16 of the Convention. It also regretted the fact that women could not become religious judges and that the religious laws that to a considerable degree govern family relations discriminated against women (A/52/38/Rev.1).

Jamaica

The Committee expresses its appreciation for the withdrawal of the reservation to article 9, paragraph 2, of the Convention, which the Government had made upon ratification (A/56/38).

Jordan

The Committee is concerned that Jordanian nationality law prevents a Jordanian woman from passing on her nationality to her children if her husband is not Jordanian. This is an anachronistic situation at a time when Jordan is making major strides in its economic and democratic development and when marriage between persons of different nationalities is increasingly common. It also notes with concern that Jordanian law prohibits women from concluding contracts in their own name, from travelling alone and from choosing their place of residence. It considers these limitations on the rights of women to be inconsistent with the legal status of women under the Jordanian Constitution and the Convention. The Committee notes with concern that Jordan has entered reservations to articles 9, paragraph 2, and 15, paragraph 4, which relate to these matters.

The Committee calls on the State party to revoke those laws and to withdraw its reservations to articles 9, paragraph 2, and 15, paragraph 4.

The Committee notes that a woman's right to choose a family name, a profession or an occupation and a woman's rights upon divorce and rights and responsibilities as a parent are not recognized in the Personal Status Code. It also notes with concern that Jordanian law recognizes the practice of polygamy.

The Committee calls upon the Government to amend the Personal Status Code to recognize women's rights to choice of family name and occupation, as well as their rights upon divorce and with regard to their responsibilities as parents. The Committee calls upon the Government to reconsider the law and policy on polygamy with a view to eliminating this practice in line with the Convention, the Constitution and evolving social relations in the country. It also recommends that the Government review its reservations to article 16, paragraph 1 (c), (d) and (g), with a view to their withdrawal (A/55/38).

Kazakhstan

The Committee welcomes the fact that Kazakhstan has ratified the Convention without reservations and has signed the Optional Protocol, and intends to ratify it as soon as possible (A/56/38).

Kenya

..... the Committee expressed its appreciation of the fact that Kenya had ratified the Convention without reservations (A/48/38).

Kyrgyzstan

The Committee commends Kyrgyzstan for ratifying a large number of international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, which was ratified, without reservations, during a difficult time of transition to a market economy and of rapid social and political change (A/54/38/Rev.1)

Libyan Arab Jamahiriya

The Committee was concerned by the State party's declaration of a general reservation on ratifying the Convention and considered it to be incompatible with the Convention's purpose and objective.

The Committee recommended that the State party take all the necessary measures to reconsider the general reservation entered on its ratification of the Convention (A/49/38).

Liechtenstein

The Committee welcomes the Government's withdrawal of its reservation to the Convention (A/54/38/Rev.1).

Lithuania

The Committee welcomes the fact that Lithuania has ratified the Convention without reservations, and that it intends to sign the Optional Protocol and to accept article 20, paragraph 1, of the Convention concerning the time of meetings of the Committee (A/55/38).

Luxembourg

The Committee noted that the reservations made by the State party to articles 7 and 16 (g) impeded the full implementation of the provisions of the Convention. Although there had been attempts to remove the reservation to article 7, the Committee found it difficult to understand why greater efforts had not been made to address the reservation to article 16 (g).

The Committee strongly suggested the introduction of steps towards the removal of the reservations to articles 7 and 16 (g) as promised in the oral presentation of the representative of the Government. The Committee encouraged the Ministry for the Advancement of Women in its efforts to that end and requested the Government to keep it informed of developments on the matter (A/52/38/Rev.1).

Luxembourg

The Committee is concerned that, notwithstanding the Government's stated commitment in its action plan 2000 to the implementation of the Beijing Declaration and the Platform for Action, no further progress has been made in withdrawing the reservations concerning articles 7 (hereditary transmission of the crown to the oldest male) and 16, paragraph 7 (g) (right to choose the family name of children). With regard to the latter, the Committee expresses its concern at the lack of governmental commitment to working towards influencing cultural traditions and attitudes which would allow for a withdrawal of the reservation.

The Committee urges the Government to take action towards the amendment of article 3 of the Constitution in view of the consent of the Grand Duke to such an amendment. The Committee also calls on the Government to undertake awareness-raising and education campaigns to overcome traditional and stereotypical images of women and men so as to enable it to withdraw its reservation under article 16 (A/55/38).

Mauritius

The positive move on the part of the Mauritius Government in withdrawing its reservations on articles 11.1 (b), 11.1 (d) and 16.1 (g) was highly appreciated by the Committee.

Several experts expressed great satisfaction with the withdrawal of reservations to articles 11.1 (b), 11.1 (d) and 16.1 (g) of the Convention. One expert pointed out that Mauritius was one of those rare countries where the Convention itself was being used to reform the domestic legal and economic systems so as to achieve greater compliance (A/50/38).

Maldives

The Committee expresses its concern with the reservations entered by the State party to articles 7 (a) and 16 of the Convention. It is concerned that the reservation to article 7 (a) on political participation supports the retention of legislative provisions that exclude women from the office of President and Vice-President of the country.

The Committee urges the Government to withdraw these reservations and to repeal legislation limiting women's political participation in public life (A/56/38).

Morocco

The Committee was of the view that, although the instrument of ratification of the Convention by the Kingdom of Morocco was in itself an important event, the fact that it had been accompanied by declarations and reservations concerning the substance of the Convention seriously hindered the latter's implementation.

The Committee was deeply concerned at the number and importance of the reservations made by Morocco, particularly the reservation to article 2, one of the Convention's central articles. The Committee considers any reservation to that article to be contrary to the object and purpose of the Convention and incompatible with international law. The Committee was likewise concerned that the combination of reservations to articles 2 and 15 leave no room for evolving concepts of Islamic law.

The Committee noted with regret that the State party did not envisage withdrawing any of its reservations.

The Committee expressed the hope that the Government would envisage, through the political will of its leaders, the progressive withdrawal of the many reservations that were seriously undermining the proper implementation of the Convention (A/52/38/Rev.1).

Moldova

The Committee welcomes the fact that the Republic of Moldova adopted the Convention without reservations (A/55/38).

Myanmar

The Committee welcomes the fact that Myanmar ratified the Convention without reservations on substantive articles (A/55/38).

Namibia

The Committee commended the Government of Namibia for ratifying the Convention without reservations so soon after its successful and long struggle for independence (A/52/38/Rev.1).

Netherlands

The Committee commends the Government for its willingness to place objections to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention (A/56/38).

[Members] welcomed the fact that the Convention had led to revisions of and additions to existing legislation and that it had been ratified without reservations.

The Committee commended the State party for not entering any reservations and for undertaking such conscientious efforts in legislation as well as other measures, first before ratifying the Convention, and secondly for its implementation (A/49/38).

New Zealand

The Committee suggested that the Government review its reservations with the intention of withdrawing them, particularly that entered to paid maternity leave. The Committee found it difficult to understand why paid maternity leave had not been implemented in working life (A/49/38).

Nicaragua

Members commended Nicaragua for the fact that it had ratified the Convention without entering any reservations (A/48/38).

Norway

[Members] welcomed the fact that the Convention had been ratified early without reservations (A/50/38).

Peru

The members of the Committee welcomed the fact that Peru had ratified the Convention without any reservations (A/50/38).

Republic of Korea

The Committee also expressed its concern about the reservations to the Convention made by the Government of the Republic of Korea, and hoped that it would consider withdrawing those reservations (A/48/38).

Republic of the Fiji Islands

... The Committee commends the State party for withdrawing its reservations to articles 5 (a) and 9 of the Convention. It also welcomes the extensive programme of law reforms in critical areas in conformity with the Constitution and the Convention and commends in particular the enactment of a citizenship law based on article 9 of the Convention (A/57/38 (Part 1)).

Saint Vincent and the Grenadines

The Committee expressed appreciation for the frank presentation of the combined initial, second and third reports. The oral presentation complemented the comprehensive written reports. The Government of Saint Vincent and the Grenadines was commended for being one of the first countries that had ratified the Convention, and had done so without reservation (A/52/38/Rev.1).

Singapore

The Committee considers that the State party's reservations impede full implementation of the Convention.

The Committee expresses deep concern regarding the reservations made by the Government of Singapore to articles 2, 9, 11, paragraph 1, and 16 of the Convention.

Recognizing that the pluralistic nature of Singapore society and its history call for sensitivity to the cultural and religious values of different communities, the Committee nevertheless wishes to clarify the fact that articles 2 and 16 are the very essence of obligations under the Convention. Since some reforms have already been introduced in Muslim personal law, the Committee urges the State party to continue this process of reform in consultation with members of different ethnic and religious groups, including women. It recommends that the State party study reforms in other countries with similar legal traditions with a view to reviewing and reforming personal laws so that they conform with the Convention, and withdrawing these reservations.

The Committee urges the State party to further amend the nationality law so as to eliminate discrimination against women, and withdraw its reservation to article 9. The explanation that a Singaporean woman cannot transfer nationality to her child when she marries a foreigner and the child is born overseas, since dual nationality is not recognized, is unconvincing. The Committee wishes to point out that since both mother and father can transfer nationality to children born within the country in many countries, including Singapore, the same problem can arise with respect to the children born of Singaporean men and foreign women.

The Committee recommends that persons in confidential, managerial and executive posts be brought within the coverage of the Employment Act. The Committee considers that the capacity for individual bargaining, and the existence of better working conditions in these sectors do not justify the absence of legal protection and the reservation to article 11.

The Committee expresses concern that the failure to extend the Employment Act to domestic workers results in discrimination against women domestic workers and denial of legal protection. It is also concerned that the requirement of their current employer's consent to transfer employment deters such workers from reporting grievances to governmental authorities.

The Committee urges the Government of Singapore to amend the Employment Act so that it covers these sectors and to withdraw its reservation to article 11 (A/56/38).

Sweden

Moreover, the fact that the Government had not made reservations to the Convention was noted with appreciation (A/48/38).

The Committee commends the Government for its willingness to place objections to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention (A/56/38).

Thailand

The Committee commends the Government for withdrawing five reservations to the Convention, and encourages it to continue its effort to withdraw the two remaining reservations. It particularly commends efforts to withdraw the reservation to article 16 relating to family life and marriage.

The Committee is concerned with the continued existence of Thailand's reservation to article 16 of the Convention which relates to marriage and family life (A/54/38/Rev.1)

Tunisia

The Committee was concerned about the general declaration made at ratification in relation to reservations made to the Convention.

The Committee urges the Government to consider withdrawing its reservations (A/50/38).

Turkey

At the Fourth World Conference on Women, Turkey committed itself to withdrawing all its reservations under articles 15 and 16 of the Convention by the year 2000, a step which requires the revision of a number of discriminatory laws contained in the Civil Code.

The reservations to articles 15 and 16 of the Convention were regarded by the experts as serious impediments to the full implementation of the Convention in the State party.

The Committee welcomed the information, reiterated in the excellent oral presentation of the delegation of the State party, relating to the draft law to amend the various articles of the Civil Code pertaining to family law, which would allow for the withdrawal by Turkey of its reservations.

The Committee also welcomed the commitments made by Turkey at the Fourth World Conference on Women to the effect that by the year 2000 it would:

(d) Withdraw the reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

Principal areas of concern

The Committee was deeply concerned about the reservations of Turkey to article 15, paragraphs 2 and 4, and article 16, paragraphs 1 (c), (d), (f) and (g). It was also concerned with the prolonged discussions and the resistance to the reform of the Civil Code, although it appreciated that efforts had been made in that context by the General Directorate, women members of Parliament and the Ministry of Justice. The Committee urged the State party to facilitate and hasten that process so that the Law on Citizenship, the Civil Code and the Criminal Code could be brought into conformity with the articles of the Convention.

The Committee invited the Government to review the Civil Code, particularly with regard to family law, with a view to removing the reservations to the Convention. It also suggested that the related provisions of the Penal Code be revised in order to ensure women the full protection of the law on equal terms with men (A/52/38).

Uganda

Members welcomed the fact that the Convention had been ratified without reservations (A/50/38).

Uzbekistan

The Committee welcomes the fact that Uzbekistan ratified the Convention without reservation and is considering signing its Optional Protocol (A/56/38).

Yemen

The Committee noted with appreciation that Yemen had not made any substantial reservations to the Convention. The only one that had been made concerned the system for the

settlement of disputes, on which many other countries had made reservations. Nevertheless, members asked whether the Government could consider withdrawing its reservation (A/48/38).

Zimbabwe

The Committee congratulates the Government for ratifying the Convention without reservations (A/53/38/Rev.1).

E. Committee against Torture

Positive remarks

On one occasion the Committee:

- welcomed information that a State party has decided to withdraw its reservation to article 20 (*Belarus*).
- welcomed the withdrawal of the reservation to article 20 and the declarations of acceptance of the procedures under article 21 and 22 of the Convention (*Russian Federation*).
- appreciated the determination of a State party to accede without reservations (*Denmark*).
- stated that it was confident that the State party would make a declaration in favour of articles 21 and 22 and withdraw its reservation on article 20 (*Czech Republic*).

On two occasions the Committee:

- welcomed the accession to/ratification of the Convention without reservations (*Bolivia, Brazil*).
- welcomed the declarations recognising the competence of the Committee under articles 21 and 22 (*Slovakia, Czech Republic*).
- appreciated the determination of a State party to accede without reservations (*Denmark, Liechtenstein*).

On three occasions the Committee:

- welcomed/regarded particularly noteworthy that a State party has acceded to/ratified the Convention without reservation and has declared in favour of articles 21 and 22 (*Algeria, Uruguay, Croatia*).
- noted with satisfaction a State party's withdrawal of its reservation to article 20 (*Zambia, Slovakia, Czech Republic*).

Neutral remarks

On one occasion the Committee:

- stated that a State party has made the declarations provided for in articles 21 and 22 (*Venezuela*).
- stated that a State party has ratified the Convention without reservations (*Poland*).
- stated that a State party has made the declaration provided for in articles 21 or 22 and has not formulated any reservations or additional declarations (*Morocco*).
- stated that a State party has made a reservation to article 20 and 30 (*Israel*).
- stated that a State party has not expressed a reservation on article 20 of the Convention (*Georgia*).

On three occasions, the Committee stated that a State party has not made the declaration provided for in articles 21 or 22 (*Brazil, Costa Rica, Israel*).

Critical remarks

On one occasion the Committee:

- stated that the maintenance of the reservation to article 20 and the non-existence of the declarations under articles 21 and 22 considerably restrict the scope of the Convention (*Morocco*).
- recommended that a State party should withdraw its reservation to article 20 (*Kuwait*).
- expressed the hope that the State party would review a reservation to article 14 (*New Zealand*).

On two occasions, the Committee hoped that the State party will review its reservation and make the declarations concerning article 21 and 22 (*Republic of Korea, Morocco*).

On three occasions, the Committee stated that a State party should consider withdrawing/suggests that a State party withdraw its reservation to article 20 and declaring in favour of articles 21 and 22 (*Ukraine, Israel, China*).

Miscellaneous

In A/53/44, the CAT informed the ILC that the Committee had considered the Commission's preliminary conclusions during the November 1998 session, and that it shared the views expressed by the Human Rights Committee, which nit considers as consistent with the Vienna Convention on the Law of Treaties, 1969.

Algeria

The Committee notes with satisfaction Algeria's commitment to institutionalize the rule of law and promote the protection of human rights as evidenced, inter alia, by its ratification of the Convention (without reservation and with declarations under articles 21 and 22 (A/52/44).

Argentina

Argentina ratified the Convention without reservation on 24 September 1986 and, on the same date, made the declarations provided for in articles 21 and 22 (A/53/44).

Belarus

The Committee welcomes the information presented by the representatives of the State party that the Government of Belarus has decided to withdraw its reservation to article 20 of the Convention regarding the inquiry procedure (A/56/44).

Bolivia

.... Bolivia acceded to the Convention on 12 April 1999 without making any reservations. It has not made the declarations provided for in articles 21 and 22 (A/56/44).

Brazil

Brazil ratified the Convention on 28 September 1989 without making any reservation. The State party has not made the declarations provided for in articles 21 and 22 (A/56/44).

Chile

.... The possibility of withdrawing the existing reservation to the Convention and making declarations to the effect that the State party recognizes the competence of the Committee in the circumstances described in articles 21 and 22 of the Convention (A/50/44).

China

The Committee recommends to the State party the following:

(h) China is invited to consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22 of the Convention (A/51/44).

.... The Committee also called upon the Government to consider making declarations with regard to articles 21 and 22 of the Convention and withdrawing the reservation entered in respect of article 20 of the Convention (A/48/44).

Costa Rica

Costa Rica deposited its instrument of ratification of the Convention on 11 November 1993 without making any reservation. The State party has not made the declarations provided for in articles 21 and 22 of the Convention (A/56/44).

Croatia

It is particularly noteworthy that Croatia has not expressed reservation to article 20 and has declared in favour of articles 21 and 22 of the Convention (A/51/44).

Czech Republic

The Committee welcomes the declarations made on 3 September 1996 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20 (A/56/44).

.... Even though the Czech Republic has not declared in favour of articles 21 and 22 and maintains its reservation on article 20 of the Convention, the Czech delegation explained that this was due to the weight of business in the legislative and executive fields and in no way reflects a lack of political will to remedy the situation. The Committee is confident that the Czech Republic will move to reform its situation in this regard and looks forward to its second periodic report (A/50/44).

Denmark

The Committee appreciates the determination of Denmark to guarantee respect for and protection of human rights, being one of the first States to accede without reservations to most of the international and regional instruments for the protection of such rights. Thus Denmark is a forefront State in the development of human rights standards (A/51/44).

Georgia

Georgia is one of the States parties that have not expressed a reservation on article 20 of the Convention (A/52/44).

Hungary

The Committee notes with satisfaction that Hungary earlier this year withdrew its reservation on geographical limitation to the 1951 Geneva Convention relating to the Status of Refugees, that previously excluded non-European asylum seekers. The Committee also notes with satisfaction, inter alia, the new legislation on asylum; Act LIX 1997 on Criminal Punishment System; the Ombudsman mechanism and Hungary's compliance with the previous recommendations of the Committee (A/54/44).

Israel

.... Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22 (A/57/44).

.... Upon ratification, Israel made a reservation in respect of articles 20 and 30. Israel has not declared in favour of articles 21 and 22. The second periodic report was due on 1 November 1996 and was received on 6 March 1998 (A/53/44).

Israel should consider making the declarations provided for under articles 21 and 22 and withdrawing its reservation to article 20 of the Convention (A/52/44).

Israel ratified the Convention on 3 October 1991 and made reservations on articles 20 and 30. It also did not make the declarations to accept the provisions of articles 21 and 22 of the Convention (A/49/44).

Kuwait

The Committee recommends that Kuwait consider withdrawing its reservations to the Committee's article 20 jurisdiction (A/53/44).

Liechtenstein

The Committee appreciates the determination of Liechtenstein to guarantee respect for and the promotion of human rights through its accession without reservations to a number of international and regional instruments for the promotion of such rights (A/50/44).

Morocco

The maintenance of the reservations expressed in respect of article 20 and the non-existence of the declarations provided for in articles 21 and 22 of the Convention; this considerably restricts the scope of the Convention in respect of Morocco.

The Committee, which appreciates Morocco's ratification of most of the human rights covenants and conventions, hopes that the Moroccan Government will withdraw the reservations entered with regard to article 20 and make the declarations provided for in articles 21 and 22 of the Convention (A/50/44).

New Zealand

.... The Committee during its discussions raised the issue of the State party's reservation to one of the core articles of the Convention, article 14, regarding compensation for victims of torture. The Committee expressed the hope that the New Zealand authorities would review that reservation to ensure its full compliance with the articles of the Convention (A/48/44).

Poland

.... Poland is one of the first Eastern European countries to bring about broad and far-reaching reforms in all areas - political, economic, social and legislative. It has ratified the European Convention on Human Rights and the Convention against Torture without reservations, as well as other international human rights instruments (A/49/44).

Republic of Korea

The Committee hopes that the Republic of Korea will review its reservation and make the declarations concerning articles 21 and 22 of the Convention (A/52/44).

Russian Federation

The withdrawal of the reservation to article 20 and the declarations of acceptance of the procedures under articles 21 and 22 of the Convention are welcomed (A/52/44).

Slovakia

The Committee welcomes the following:

(b) The declarations made on 17 March 1995 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20 made on 7 July 1988 by the Czechoslovak Socialist Republic (A/56/44).

Ukraine

The Committee recommends that the State party: ...

(b) Deposit with the Secretary-General its declaration accepting the Committee's competence with respect to articles 21 and 22 of the Convention and the removal of its reservation in regard to article 20 (A/57/44);

The Committee encourages the Government of Ukraine to consider withdrawing its reservation to article 20 of the Convention and to make the declarations under articles 21 and 22, as well as ratify Protocol No. 6 to the European Convention on Human Rights (A/52/44).

Uruguay

The members of the Committee welcome the presentation of the second periodic report by the delegation of Uruguay and note that Uruguay was one of the first countries to ratify the Convention, that it has not made any reservations and that it has recognized the optional procedures set forth in articles 20, 21 and 22 of the Convention (A/52/44).

Venezuela

It made the declarations provided for under articles 21 and 22 on 21 December 1993, and has not formulated any reservations or additional declarations (A/54/44).

Zambia

The Committee notes with satisfaction the following elements:

(a) The State party's withdrawal of its reservation made with respect to article 20 of the Convention (A/57/44).

F. Committee on the Rights of the Child

Positive remarks

On six occasions the Committee:

- welcomed the intention to withdraw its reservations or to consider withdrawal or to review (*Indonesia, China, Mauritius, Poland, Croatia, Republic of Korea*);
- welcomed withdrawal or noted with satisfaction the withdrawal of one or more reservations (*Slovenia, Pakistan, United Kingdom, Tunisia, Norway, Myanmar*).

On one occasion the Committee:

- welcomed the State party's ratification without reservations (*Sudan*);
- noted the commitment expressed by the delegation to encourage the State party to withdraw its reservations and recommended that all necessary measures be taken to facilitate the process at the earliest possible opportunity (*Mali*);
- welcomed preparation of legislation that will facilitate withdrawal of reservations and encourages the State party to complete the revision of its legislation (*Liechtenstein*);
- expressed its appreciation to a State party for having expressed concern to withdraw reservations made by a State party which are incompatible with the object and purpose of the Convention (*Norway*);

Neutral remarks

On one occasion the Committee:

- stated that the State party maintains reservations affecting certain articles. It took note of the commitment of the State party to review its reservations, in light of the Vienna Declaration and Programme of Action (*Austria*);
- noted the State party's initiative, through its Standing Committee on Procedural, to initiate the process of review of its reservation and encourages the State party to complete the process (*Denmark*).

Critical remarks

On eighteen occasions, the Committee expressed its concern at particular reservations and recommended withdrawal or reiterated its recommendation to withdraw in light of the Vienna Declaration adopted by the World Conference on Human Rights (*Germany, Japan, Singapore, Argentina, Switzerland, Netherlands, Japan, Maldives, Luxembourg, Iraq, United Kingdom of Great Britain and Northern Ireland, Liechtenstein, Turkey, Monaco, France, Holy See, Canada,*

Denmark). On two of these occasions, the Committee also requested or wished to be kept informed of developments (*Canada, Denmark*).

On seven occasions the Committee:

- regretted that the concerns and recommendations it had expressed with respect to reservations upon consideration of a State party's initial report were insufficiently addressed in subsequent report/s. In such cases, the Committee reiterated the invitation to withdraw the reservations and declarations (*France, Canada, Bangladesh, Morocco, Republic of Korea, Czech Republic, Argentina*);
- expressed its concern that the broad and/ imprecise nature of a reservation/general reservation potentially negated many of the Convention's provisions and raised concern as to its compatibility with the object and purpose of the Convention. It recommended withdrawal in accordance with the Vienna Declaration and Programme of Action (*Jordan, Djibouti, Saudi Arabia, New Zealand, Jordan, Tunisia, United Kingdom*).

On five occasions, the Committee expressed its concern that a reservation raised questions about its compatibility with the principle and provisions of the Convention or might impede the full implementation of the Convention. It encouraged the State party to consider withdrawal (*Slovenia, Australia, Indonesia, Pakistan, Republic of Korea*). In one of these cases, the Committee stated that it would like to be kept informed of developments (*Slovenia*).

On three occasions, the Committee set out the negative implications of certain reservations and recommended withdrawal (*Netherlands, Belgium, Malta*).

On two occasions the Committee:

- observed that some of a State party's reservations were superfluous and recommended withdrawal (*Jordan, Egypt*);
- while acknowledging openness of the State party towards the possibility of reviewing its reservations, remained concerned that these reservations might impede the full implementation of the Convention. It encouraged the State party to further review its reservations with a view to their withdrawal (*Bangladesh, Czech Republic*);
- recommended that the State party expedite the process for the withdrawal of the reservations and declarations (*Germany, New Zealand*);
- noted the efforts made towards removal of reservations but regretted the slow process of this withdrawal (*Canada, New Zealand*);
- recommended that the State party engage in dialogue with certain groups to facilitate withdrawal (*New Zealand, Germany*).

On one occasion the Committee:

- expressed its concern/remained concerned at particular reservations and recommended withdrawal/reiterates its recommendation to withdraw and then described how the State party should reform its legislation to make withdrawal possible (*Republic of Korea*);
- expressed its concern that the broad nature of its reservations may cause misunderstandings about the nature of the State's commitment to implementing in the rights covered by these articles. It encouraged the State party to consider withdrawal and underlines that interpretative declarations by the State party might have the desired effect of clarifying the State position in respect of these particular rights (*Syrian Arab Republic*);
- expressed its deep concern that the broad and imprecise nature of a State party's reservation potentially negated many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention. It strongly recommended that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considered that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommended that the State party study particular reservations with a view to withdrawing them (*Brunei Darussalam*);
- while noting that the State party had set up a governmental working group to study the compatibility of existing laws with the Convention, was nevertheless concerned that the broad and imprecise nature of the general reservation potentially negated many of the Convention's provisions and raised concern as to its compatibility with the object and purpose of the Convention (*Iran*);
- recommended to the State party to study its reservation with a view to narrowing it, taking into account the Human Rights Committee's General Comment 22 and eventual withdrawal (*Jordan*);
- noted with regret the State party's reservation but welcomed information that it would be withdrawn once the law was reviewed (*Botswana*);
- remained deeply concerned about certain reservations which might impede the full implementation of the Convention, but welcomed the information from the delegation that the State party was willing to continue to review those reservations with a view to their withdrawal. In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterated its previous recommendation that the State party withdraw its reservations to the Convention and recommended that the State party take into account the experience of other States parties in this regard (*Bangladesh*);
- welcomed the State party's withdrawal of certain reservations and while noting that consideration would be given to withdrawing the remaining reservations, it remained

concerned about the extent of reservations and declarations made to the Convention. In particular, it remained concerned that certain reservations appear to be incompatible with the object and purpose of the Convention (*Tunisia*);

- regretted that no review been undertaken with respect to the reservations since the presentation of the initial report. In noting the State party's reasoning in its report, it reiterated its concern that the nature of the general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention. The Committee referred in particular to certain articles and highlights the unnecessary nature of certain reservations. It recommended that the State party, in accordance with the Vienna Declaration and Plan of Action, and taking account of the Human Rights Committee's general comment No. 22, study its reservations, in particular certain provisions (*Syrian Arab Republic*);
- appreciated the fact that the State party had reviewed its declaration and/ reservation but was concerned that it does not intend to withdraw them. It encouraged the State party to review with a view to withdrawal (*Belgium*);
- regretted that the State party has not withdrawn its reservation, highlights the unnecessary nature of its reservation and requests withdrawal (*Czech Republic*);
- welcomed information that a reservation would be withdrawn, but expressed concern about the remaining reservations and emphasised that it was a long established in international law that States parties to a treaty could not invoke provisions of their domestic laws as justification for their inability to perform obligations under a treaty. It recommended that the State party withdraw some reservations and study others with a view to narrowing them (*United Arab Emirates*);
- welcomed information that the State party was re-examining its reservations to certain articles but was nevertheless concerned that its reservation to certain articles was not included in this re-examination. It recommended the State party to expeditiously to re-examine its reservations with a view to withdrawal in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (*Oman*);
- welcomed information that the State party was re-examining its reservation. It was concerned that the broad and imprecise nature of a State party's reservation potentially negated many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention. It encouraged the State party to expeditiously complete its re-examination with a view to withdrawal in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (*Qatar*);
- expressed its concern at certain reservations, welcomed information that consideration would be given to withdrawal of other reservations, but remained concerned at the slow pace and the fact that some reservations will not be withdraw.

The Committee then described in detail what changes should be made to domestic legislation to facilitate withdrawal (*Switzerland*);

- regretted that a State party had not considered reviewing its position and withdrawing its reservation (*France*);
- noted with appreciation the withdrawal of certain reservations, but expressed its concern at the remaining reservations. It noted the State party's ratification of the ICCPR drawing its attention to relevant provisions and encouraged the State party to consider the possibility of reviewing its reservations with a view to withdrawal in light of the ratification of this treaty as well as the Vienna Declaration and Programme of Action (*Thailand*);
- noted its concern that a State party's reservations to the Convention remained and encouraged the State party to withdraw them (*Netherlands*);
- expressed its concern at a reservation/s, which affected the implementation of the rights guaranteed in a particular provision/s, but welcomed the information that the State part would reconsider the need for this reservation (*Morocco*);
- urged the State party to review its position and consider withdrawing its reservation (*France*);
- recommended that the State party make withdrawal of all reservations a matter of priority (*Indonesia*);
- acknowledged the information that reservations and declarations made by a State party upon ratification had become unnecessary but remained concerned at the lack of willingness of a certain group to accept withdrawal (*Germany*).

Comments with respect to other treaties

On one occasion the Committee:

- was encouraged by the withdrawal of its reservations to article 20 of the CAT (*Bahrain*);
- recommended a State party to reconsider its reservation to a provision of the ICCPR (*Netherlands*).

Miscellaneous

The CRC has touched upon the issue of reservations in its General Comment on articles 4, 42 and 44-6 (General Comment 05 (2003)). In its Annual Report, A/49/41, under the heading "Conclusions and Recommendations adopted by the Committee on the Rights of the Child", the CRC referred to the issue of reservations, and inter alia, recognized the importance of tackling

the question of reservations and declarations in the course of its consideration of reports submitted by States parties.

To mark the tenth anniversary of the adoption of the Convention on the Rights of the Child by the General Assembly, on 20 November 1999, the Committee during its twenty-second session, had a general discussion to assess the impact of the Convention and to elaborate recommendations to improve its implementation. One of the four themes related to reservations upon which the Committee came to certain conclusions, inter alia, that the Committee had a decisive role to play in the assessment of the validity and impact of reservations made by States parties, and will continue to systematically raise this issue with States parties. It asked that a study be carried out on existing reservations, and seemed open to “alternative approaches” it could adopt (A/55/41).

In its Annual Report A/57/41, under “Overview of the other activities of the Committee” the Committee highlighted its concern for the nature of the reservations made by States parties, particularly those of a general nature, because they serve to restrict the application of the Convention. It stated that it had recommended to States that, at the very least, they study their reservations or narrow them, with a view to eventual withdrawal. However, it noted that only one State party has done so during the period under consideration, the Committee is encouraged by some States having indicated their willingness to study and reconsider their reservations.

In its guidelines on reporting the Committee provides the States parties with specific guidelines on reporting on reservations and declarations.

Argentina

The Committee is furthermore concerned about the reservations entered by the Government of Argentina upon the ratification of the Convention with respect to article 21 (b) to (e) owing to their broad nature.

The Committee recommends that the Government of Argentina consider reviewing the reservation entered upon ratification of the Convention with a view to withdrawing it. In that connection, the attention of the State party is drawn to the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which encouraged States to withdraw reservations to the Convention (CRC/C/29).

The Committee regrets that most of the concerns and recommendations (ibid.) it made upon consideration of the State party’s initial report (CRC/C/8/Add.2 and 17) have been insufficiently addressed, particularly those contained in paragraphs 14 (reservations) ... The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations in the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations.

The Committee reiterates its concern about the reservations (*ibid.*, para. 8) entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e).

The Committee reiterates its recommendation (*ibid.*, para. 14) that the State party consider reviewing the reservations entered upon ratification of the Convention with a view to withdrawing them (CRC/C/121).

Australia

The Committee notes with concern the reservation made by the State party to article 37 (c) of the Convention. The Committee notes that this reservation might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 37 (c) with a view to its withdrawal. The Committee emphasizes that article 37 (c) allows for exemptions from the need to separate children deprived of their liberty from adults when that is in the best interests of the child (A/53/41).

Austria

The State party maintains two reservations affecting articles 13 and 15, and article 17 of the Convention. The Committee takes note of the commitment of the State party to review its reservations, in light of the Vienna Declaration and Programme of Action of 1993, with a view to their withdrawal (A/55/41).

Bahrain

The Committee is encouraged by the efforts made by the State party towards greater openness and accountability with respect to human rights, including the withdrawal of its reservation to article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CRC/C/114).

Bangladesh

The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.74) after its consideration of the State party's initial report (CRC/C/3/Add.38), particularly those contained in paragraphs 28-47, regarding the withdrawal of the reservations (para. 28). Those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to implement the previous recommendations that have not yet been implemented, as well as the recommendations contained in the present concluding observations.

The Committee remains deeply concerned about the reservations to articles 14, paragraphs 1 and 21 of the Convention, which might impede the full implementation of the

Convention, but welcomes the information from the delegation that the State party is willing to continue to review those reservations with a view to their withdrawal. In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterates its previous recommendation that the State party withdraw its reservations to the Convention (art. 14, paras. 1 and 21) and recommends that the State party take into account the experience of other States parties in this regard (CRC/C/133).

While acknowledging the openness of the State party towards the possibility of reviewing its reservations to articles 14, paragraph 1, and 21 of the Convention, the Committee remains concerned that these reservations might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action, the Committee encourages the State party to further review its reservations to articles 14, paragraph 1, and 21 of the Convention, with a view to their withdrawal. The Committee is of the opinion that, in the light of the proposed reforms to national legislation, the reservations may not be necessary (A/53/41).

Belgium

The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2 (v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the Convention applies to “each child within [the State party’s] jurisdiction”. With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993) (CRC/C/118).

Botswana

The Committee notes with regret the reservation that the State party has made to article 1 of the Convention, but welcomes the information during the dialogue that the reservation will be withdrawn as soon as the review of the law is completed.

The Committee recommends that the State party withdraw its reservation to article 1 of the Convention at the earliest time possible by expediting the law review process (CRC/C/143).

Brunei Darussalam

The Committee is deeply concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee strongly recommends that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considers that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommends that the State party study its reservations to articles 14, 20 and 21 of the Convention with a view to withdrawing them (CRC/C/133).

Canada

The Committee, while noting the implementation of some of the recommendations (CRC/C/15/Add.37 of 20 June 1995) it made upon consideration of the State party's initial report (CRC/C/11/Add.3), regrets that the rest have not been, or have been insufficiently, addressed, particularly those contained in: paragraph 18, referring to the possibility of withdrawing reservations The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide effective follow-up to the recommendations contained in the present concluding observations on the second periodic report.

The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention. (CRC/C/133).

The Committee notes with concern that the State party made reservations to articles 21 and 37 (c) of the Convention.

The Committee wishes to encourage Canada to review its reservations to the Convention and to consider the possibility of withdrawing them, and would like to be kept informed of developments on this fundamental matter (CRC/C/43).

China

In the light of the discussion in the Committee on the question of the continuing need for the State party's reservation to article 6 of the Convention and the information provided by the State party that it is open to considering making adjustments in regard to its reservation, the Committee encourages the State party to review its reservation to the Convention with a view to its withdrawal (A/53/41).

Croatia

The Committee welcomes the statement by the delegation that the Government intends to withdraw its reservation to article 9 of the Convention (CRC/C/50).

The Committee welcomes the withdrawal of its reservation on article 9, paragraph 1, of the Convention in 1998 (CRC/C/143).

Czech Republic

The Committee regrets that some of its recommendations in the previous concluding observations (CRC/C/15/Add.81) have been insufficiently addressed, inter alia the reservation to article 7, paragraph 1, of the Convention (ibid., para. 26).... The Committee notes that those recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been fully implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

The Committee regrets that the State party has not withdrawn its reservation to article 7, paragraph 1, of the Convention. Based on the dialogue, it is the Committee's understanding that the civil registration of irreversible adoption does not necessarily mean that the adopted child has no possibility of knowing his or her (biological) parents.

The Committee therefore recommends that the State party reconsider its position and withdraw its reservation (CRC/C/132).

While acknowledging the openness of the State party towards the possibility of reviewing its reservation to article 7, paragraph 1, of the Convention, the Committee remains concerned that this reservation might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 7, paragraph 1, of the Convention (A/53/41).

Denmark

The Committee notes the initiative of the State party, through its Standing Committee on Procedural Law, to initiate the process of reviewing its reservation to article 40 (2) (b) (v) of the Convention.

In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993), the Committee encourages the State party to complete the process of review of its reservation to article 40 (2) (b) (v) of the Convention with a view to withdrawing it (CRC/C/108).

The Committee notes with concern that the State party made a reservation to article 40 (2) (b) (v) of the Convention, but also notes that the Government may reconsider that reservation.

The Committee wishes to encourage the State party to consider the possibility of withdrawing its reservation to the Convention, and would like to be kept informed of developments on this matter (CRC/C/38).

Djibouti

The Committee is concerned that the broad and imprecise nature of the general declaration made by the State party upon ratification of the Convention, which amounts to a reservation, potentially negates many of the Convention's provisions and raises concerns as to its compatibility with the object and purpose of the Convention. The Committee welcomes indications that the declaration may have been intended primarily to address only the issue of the right of the child to freedom of religion and that efforts will be made to review the situation.

In the light of the Vienna Declaration and Programme of Action, and bearing in mind the provisions of article 27 of the Vienna Convention on the Law of Treaties, the Committee encourages the State party to review the general nature of its declaration to the Convention on the Rights of the Child with a view to its withdrawal. Initial report (CRC/C/97).

Egypt

The Committee observes that the State party's reservation to articles 20 and 21 of the Convention is unnecessary. It points out that article 20 (3) of the Convention expressly recognizes kafalah of Islamic law as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

The Committee recommends that the State party continue its efforts to consider withdrawal of its reservation to articles 20 and 21 of the Convention, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993) (CRC/C/103).

Federal Republic of Yugoslavia (Serbia and Montenegro)

The Committee encourages the State party to review its reservation to the Convention with a view to considering its withdrawal (CRC/C/50).

France

The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.20) it made upon consideration of the State party's initial report (CRC/C/3/Add.15) have been insufficiently addressed, particularly those contained in

paragraphs: 11, 17 (on the reservation to article 30) The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report. The Committee also urges the State party to incorporate the concept of the child as a subject of rights in all policies, programmes and projects and reiterates the invitation to the State party to withdraw its reservation and both declarations.

The Committee welcomes information provided in the State party's report that all children in France are equal before the law and have a right to freedom of religion, expression in their own language in private affairs and right to cultural activities. However, the Committee remains concerned that equality before the law may not be sufficient to ensure equal enjoyment of rights by certain minority groups, such as the Roma, among others, who may face de facto discrimination. The Committee regrets that the State party has not considered reviewing its position and withdrawing its reservation to article 30 of the Convention.

The Committee encourages the State party to continue measures to prevent and combat racism, xenophobia, discrimination and intolerance, by, inter alia, ensuring follow-up to the recommendations of the United Nations treaty bodies and the European Commission against Racism and Intolerance (ECRI), in particular as concerns children. The Committee urges the State party to review its position with respect to children belonging to minority groups and to consider withdrawing its reservation to article 30 (CRC/C/140).

The Committee notes with concern the reservation made by the State party to article 30 of the Convention. The Committee wishes to emphasize that the Convention on the Rights of the Child seeks to protect and guarantee the individual rights of children, including the rights of children belonging to minorities.

The Committee wishes to encourage the State party to consider reviewing its reservation to article 30 of the Convention with a view to withdrawing it (CRC/C/29).

Germany

The Committee acknowledges the information (CRC/C/83/Add.7, paras. 84 and 844 and written replies, pp. 46 and 47) that the reservations and declarations the State party made upon ratification have become unnecessary, inter alia, due to recent legislation. But the Committee remains concerned at the lack of willingness of the majority of the Länder to accept the withdrawal of these reservations and declarations.

In light of the 1993 Vienna Declaration and Programme of Action, and in line with its previous recommendations (CRC/C/15/43, para. 22), the Committee recommends that the State party expedite the process for the withdrawal of the reservations and declarations it had made before the submission of its next periodic report and increase, in particular, its efforts to convince the Länder of the need to withdraw them.

In addition to the reservations to article 40 (2) (b) (ii) and (v), the Committee is concerned at the increasing number of children placed in detention, disproportionately affecting children of foreign origin, and that children in detention or custody are placed with persons up to the age of 25 years.

The Committee is concerned about the reservations to articles 26, 37 and 40 entered by the State party on its accession to the Convention.

In light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993, the Committee recommends that the State party withdraw its reservations to the Convention (CRC/C/137).

Holy See

The Committee is concerned about reservations entered by the Holy See to the Convention on the Rights of the Child, in particular with respect to the full recognition of the child as a subject of rights (CRC/C/46).

Indonesia

The Committee welcomes the information that Law No. 23 of 2002 on Child Protection renders the reservations made by the State party with regard to articles 1, 14, 16, 17, 21, 22 and 29 of the Convention unnecessary and that all reservations will therefore be withdrawn shortly.

The Committee, in line with its previous recommendations (CRC/C/15/Add.25), and in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party make the withdrawal of all reservations a matter of priority and that it take the necessary procedural measures to that effect (CRC/C/137).

The Committee takes note of the willingness expressed by the State party to review its national legislation in the light of its obligations under the Convention and as reflected in the “Beijing consensus” of August 1992. It also welcomes the State party’s commitment to review the reservations it has made to the Convention with a view to considering withdrawing them.

The Committee is deeply concerned at the extent of the reservations made to the Convention by the State party. The Committee feels that the broad and imprecise nature of these reservations raises serious concern as to their compatibility with the object and purposes of the Convention (A/49/41).

Iran (Islamic Republic of)

Noting information from the State party that a governmental working group has been established to study the compatibility of existing laws with the Convention, the Committee is nevertheless concerned that the broad and imprecise nature of the State party’s general reservation potentially negates many of the Convention’s provisions and raises concern as to its compatibility with the object and purpose of the Convention.

The Committee recommends that the State party expedite this study and use the findings to review the general nature of its reservation with a view to narrowing, and in the long-term withdrawing in accordance with the Vienna Declaration and Programme of Action (CRC/C/97).

Iraq

The Committee notes with concern the reservation to article 14.1 made by the State party upon ratification of the Convention. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider the possibility of reviewing the reservation with a view to its withdrawal (A/55/41).

Japan

The Committee is concerned about the State party's declarations on articles 9 and 10 and its reservation to article 37 (c). In accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 (A/CONF.157/23), the Committee reiterates its recommendation that the State party withdraw its declarations on and reservation to the Convention (CRC/C/37).

The Committee notes with concern the reservation made by the State party to article 37 (c) of the Convention, as well as the declarations made in relation to articles 9, paragraph 1, and 10, paragraph 1.

In light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservation to article 37 (c) and its declarations with a view to their withdrawal (A/55/41).

Jordan

The Committee observes that the State party's reservation to articles 20 and 21 of the Convention is superfluous. It points out that article 20 (3) of the Convention expressly recognizes *kafalah* of Islamic law as alternative care, and article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which in any case does not apply to Jordan.

The Committee recommends to the State party to withdraw its reservation to articles 20 and 21 of the Convention, in accordance with the Vienna Declaration and Programme of Action.

The Committee is concerned that the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion, and raises questions of its compatibility with the object and purpose of the Convention.

In light of its previous recommendations (CRC/C/15/Add.21), the Committee recommends to the State party to study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's General Comment 22 and recommendations (CCPR/C/79/Add.35), and eventually, to withdraw it in accordance with the Vienna Declaration and Programme of Action (CRC/C/97).

The Committee is concerned that the broad nature of the reservations made to articles 14, 20 and 21 of the Convention by the State party may affect the implementation of the rights guaranteed in these articles and may raise questions about the compatibility of the reservations with the object and purpose of the Convention.

The Committee expresses the hope that the Government will consider the possibility of reviewing its reservations to articles 14, 20 and 21 of the Convention, with a view to the withdrawal of these reservations (CRC/C/29).

Liechtenstein

The Committee welcomes the State party's preparation of legislation that will further facilitate access to Liechtenstein citizenship for stateless persons. In this regard, it further welcomes the intention of the State party to withdraw its reservations to article 7 of the Convention and to accede to the relevant international conventions on statelessness.

The Committee encourages the State party to complete the revision of the legislation regarding acquisition of Liechtenstein citizenship as soon as possible, in light of the Convention. Additionally, the Committee encourages the State party to pay special attention to the position of children born in Liechtenstein to stateless parents. In this connection, the Committee also recommends that the State party withdraw its reservation to article 7 at the earliest possible opportunity and ratify the 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

The Committee is concerned about the reservation made by the State party to article 10 (2) of the Convention as well as the State's policy regarding family reunification. These suggest that the State party has serious difficulties in dealing with applications for the purpose of family reunification in a positive, humane and expeditious manner and without adverse consequences for the applicants.

The Committee recommends that the State party take the necessary legal and other measures to establish a practice in the area of family reunification in accordance with the principles and provisions of the Convention. The Committee further encourages the State party to consider the withdrawal of its reservation to article 10 (2) of the Convention (CRC/C/103).

Luxembourg

The Committee is concerned that the State party has made reservations affecting articles 2, 6, 7 and 15 of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservations with a view to their withdrawal (A/55/41).

Maldives

The Committee is concerned that the reservations made to articles 14 and 21 of the Convention by the State party may affect the implementation of the rights guaranteed in these articles.

In the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which encouraged States to withdraw reservations to the Convention on the Rights of the Child, the Committee recommends the State party to consider reviewing its reservations to the Convention with a view to withdrawing them (A/55/41).

Mali

The Committee notes the commitment expressed by the delegation to encourage the State party to withdraw its reservation to article 16 of the Convention and recommends that all necessary measures be taken to facilitate the process at the earliest possible opportunity, in the light of the Vienna Declaration and Programme of Action (1993) (A/55/41).

Malta

The Committee notes that the reservation to article 26 of the Convention entered by the State party upon ratification of this international instrument may have an adverse effect on the existing levels of social services and benefits for children.

In light of the 1993 Vienna Declaration and its Programme of Action, the Committee recommends that the State party review the reservation made to article 26 of the Convention with a view to withdrawing it (CRC/C/97).

Mauritius

The Committee welcomes the oral and written commitment of the Government of Mauritius to withdrawing its reservation to article 22 of the Convention.

In the spirit of the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, in which States were urged to withdraw reservations to the Convention on the Rights of the Child, the Committee wishes to encourage the State party to take steps to withdraw its reservation to article 22 of the Convention (A/53/41).

Monaco

The Committee is concerned that some legislative provisions are not in full conformity with provisions of the Convention.

The Committee recommends that the State party proceed with efforts to amend domestic legislation with a view to ensuring full respect for the provisions of the Convention. Noting ongoing efforts to change domestic legislation with regard to nationality, the Committee recommends withdrawal of the State party's reservation in this regard. The Committee

recommends, in addition, that the State party pursue its current efforts towards ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

The Committee is concerned at the State party's declaration and reservation made upon ratification of the Convention.

The Committee welcomes the State party's indication of its intention to withdraw its declaration made upon ratification of the Convention and its willingness to consider withdrawal of its reservation (CRC/C/108).

Morocco

The Committee welcomes the publication of the Convention in the *Official Gazette* and the ratification of ILO Convention No. 138, but regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.60) after its consideration of the State party's initial report (CRC/C/28/Add.1) have been insufficiently addressed, particularly those contained in paragraphs 20 to 28, such as the reservation made to article 14 of the Convention ... Those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the concerns contained in the present concluding observations.

The Committee is concerned at the reservation made to article 14 of the Convention by the State party, which affects the implementation of the rights guaranteed in this article, but welcomes the information given during the dialogue that the State party will reconsider the need for this reservation.

The Committee, in line with its previous recommendations (CRC/C/15/Add.60, para. 18) and in light of the 1993 Vienna Declaration and Programme of Action, encourages the State party to reconsider its reservation to article 14 with a view to withdrawing it (CRC/C/132).

The Committee is concerned at the reservation made to article 14 of the Convention by the State party, which may affect the implementation of the rights guaranteed in this article and may raise questions about the compatibility of the reservation with the objective and purpose of the Convention.

The Committee recommends that the Government of Morocco consider reviewing the reservation entered upon ratification of the Convention with a view to withdrawing it, in the spirit of the Vienna Declaration and Programme of Action, adopted in June 1993, in which the World Conference on Human Rights urged States to withdraw reservations to the Convention on the Rights of the Child (A/53/41).

Myanmar

The Committee welcomes the fact that the State party has withdrawn its reservations on articles 15 and 37 of the Convention (A/53/41).

Netherlands

The Committee is encouraged that the State party has indicated its willingness to reconsider its reservation to article 10 of the International Covenant on Civil and Political Rights. However, it notes with concern the reservations to articles 26, 37 and 40 of the Convention made by the State party. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider withdrawing all of its reservations.

The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age. The Committee is also seriously concerned at information provided which indicates that children aged 12 to 15 are also sometimes tried under adult criminal law. The Committee urges the State party to ensure that under the existing law no child under the age of 16 at the time of the commission of a crime is tried under adult criminal law, and to review the reservation mentioned above with a view to withdrawing it. The Committee further recommends that the State party takes legislative steps to ensure that a life sentence cannot be imposed on children who are tried under adult criminal law (A/55/41).

The Committee is concerned that the reservations made by the State party with respect to articles 26, 37 and 40 of the Convention, as well as the declaration concerning article 22, have not yet been withdrawn and are still applicable to the Netherlands Antilles.

In light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party in its intention, as stated by the delegation, to withdraw all of its reservations and declarations, including with respect to the Netherlands Antilles.

The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for minor offences children need not be heard in the presence of a legal representative. The Committee is further concerned at reports that minors below 16 are held together with adults in detention facilities. In addition, the Committee is concerned that there are insufficient facilities for children in conflict with the law, limited training programmes for professionals working in the juvenile justice system, no available complaint mechanism directly accessible for children whose rights have been violated, and a lack of statistical data on the juvenile justice system (CRC/C/118).

New Zealand

While noting that the State party is considering withdrawing its reservations to the Convention, the Committee is disappointed by the slow pace of this process and that it has not yet resulted in the withdrawal of a reservation. The Committee remains very concerned at the State party's general reservation and the reservations specific to articles 32, paragraph 2 and 37 (c).

In accordance with the Vienna Declaration and Programme of Action of 1993, the Committee recommends that the State party:

Expedite the changes in legislation and administrative procedures necessary for the withdrawal of its general reservation and the reservations to articles 32, paragraph 2 and 37 (c);

Continue its discussions with the people of Tokelau with a view to extending the application of the Convention to their territory (CRC/C/133).

The Committee is concerned about the broad nature of the reservations made to the Convention by the State party, which raise questions as to their compatibility with the object and purpose of the Convention. Moreover, the Committee regrets that the State party has not extended the Convention with respect to the territory of Tokelau, which is not at present a sovereign State and remains a Non-Self-Governing Territory in important respects (A/53/41).

Norway

The Committee welcomes the withdrawal of the State party's reservation to article 40 (2) (b) (v) of the Convention in 1995, following amendments to the Criminal Procedure Act. In addition, the Committee is encouraged by amendments to the Children Act which strengthen the position of children and the protection of their rights (CRC/C/97).

The Committee welcomes the steps taken by the Government of Norway to review its reservation to the Convention with a view to its withdrawal. It also appreciates the concern expressed by the Government of Norway as to reservations made by any State party which are incompatible with the object and purpose of the Convention as prohibited in the Convention's article 51.

The Committee wishes to encourage the State party to take the necessary steps for withdrawing its reservation to the Convention in the very near future and would like to be kept informed of developments on this matter (CRC/C/29).

Oman

The Committee welcomes information that the State party is re-examining its reservations to articles 7, 9, 21 and 30 of the Convention. While noting difficulties that the State party may have, the Committee is nevertheless concerned that its reservation to article 14 is not included in this re-examination.

The Committee recommends that the State party:

(a) Expeditiously complete its re-examination of its reservations to articles 7, 9, 21 and 30 of the Convention with a view to withdrawing them in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993);

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 on freedom of thought, conscience and religion (CRC/C/111).

Pakistan

The Committee welcomes the withdrawal on 23 July 1997 of the State party's general reservation to the Convention (CRC/C/133).

The Committee is of the opinion that the broad and imprecise nature of the reservation made to the Convention raises deep concern as to its compatibility with the object and purpose of the Convention.

The Committee expresses the firm hope that the State party will review its reservation with a view to withdrawing it (CRC/C/29).

Poland

The Committee further welcomes the intention expressed by the delegation to review the contents of the reservations and declarations made at the moment of the ratification of the Convention on the Rights of the Child with a view to considering their possible withdrawal (CRC/C/29).

Qatar

The Committee welcomes information that the State party is re-examining its reservation to the Convention with a view to amending or withdrawing it. The Committee is concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the Conventions provisions and raises concern as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee encourages the State party to expeditiously complete its re-examination of its reservation with a view to narrowing and ultimately withdrawing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (CRC/C/111).

Republic of Korea

The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51), adopted following its consideration of the State party's initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:

- (a) The withdrawal of reservations (para. 19)

The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) (v).

The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) (v). The State party is also encouraged to expedite the process of reforming the Civil Act so that both children and parents are guaranteed the right to maintain contact with each other, and to strengthen its efforts to change public attitudes to domestic adoption, in order to withdraw the reservations to articles 21, paragraph (a),

and 9, paragraph 3, in accordance with the Vienna Declaration and Programme of Action, adopted in 1993 (CRC/C/132).

The Committee also welcomes the openness, reflected in the written replies and reaffirmed by the delegation during the dialogue, towards considering the possibility of withdrawing the reservations entered by the State party to the Convention. The Committee is encouraged by the revision of the Civil Code that is being undertaken with the aim of incorporating the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis. It is also encouraged by the fact that, as stated by the delegation, such a measure will enable the State party to withdraw its reservation pertaining to article 9, paragraph 3 of the Convention.

The Committee is of the view that the reservations made by the State party to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph 2 (b)(v) raise questions about their compatibility with the principles and provisions of the Convention, including the principles of the best interests of the child and respect for the views of the child.

The Committee encourages the Government to continue to consider reviewing its reservations to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph (b)(v), with a view to withdrawing them (CRC/C/50).

Saudi Arabia

The Committee is concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee recommends that the State party withdraw its reservation, in accordance with the Declaration and Plan of Action of the World Conference on Human Rights (CRC/C/103).

Singapore

The Committee is concerned about the declarations on articles 12-17, 19 and 39 and reservations to articles 7, 9, 10, 22, 28 and 32 entered by the State party on its accession to the Convention.

In light of the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, the Committee recommends that the State party withdraw its declarations on and reservations to the Convention (CRC/C/133).

Slovenia

The Committee is of the view that the reservation made by the State party to article 9, paragraph 1, raises questions about its compatibility with the principles and provisions of the Convention, including the principle of the best interests of the child.

The Committee takes note of the statement made by the delegation that the reservation on article 9, paragraph 1, made by Slovenia upon ratification of the Convention may be reviewed, with a view to its eventual withdrawal. It wishes to encourage the State party to consider withdrawing this reservation to the Convention, and would like to be kept informed of developments on this matter (A/53/41).

The Committee welcomes a number of positive developments in the reporting period, including:

(a) The recent official withdrawal of the State party's reservation to article 9, paragraph 1, of the Convention (CRC/C/137).

Sudan

The Committee expresses satisfaction at the State party's early ratification of the Convention without any reservations and for the timely submission of its initial report. However, the Committee feels that in the light of the adopted guidelines further information would be required, inter alia, on special protection measures and on the policies and strategies required to realize health care and education goals (A/49/41).

Switzerland

The Committee is concerned at the reservations made by the State party to articles 5, 7, 10 and 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

(a) Expedite as much as possible the process for the withdrawal of the reservations regarding the provision of an interpreter free of charge (art. 40 (2) (b) (vi)) and use this process to withdraw as soon as possible the reservation to article 5, given the fact that this reservation is, according to the State party, only an interpretative declaration that is not intended to affect the meaning of article 5;

(b) Expedite the current revision of the naturalization law and withdraw as soon as possible after the approval of this revision the reservation made to article 7;

(c) Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;

(d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40 (2) (b) (ii) regarding

legal assistance and to article 37 (c) regarding separation of juveniles deprived of their liberty from adults;

(e) Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (art. 40 (2) (b) (iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person;

(f) Expedite the current legal reform which abolishes the competence of the Federal Tribunal as a court of first instance and withdraw as soon as possible after approval of that reform the reservation made to article 40 (2) (b) (v).

While welcoming the entry into force of the federal asylum legislation (Federal Asylum Act and Ordinance 1 on Asylum Procedure) on 1 October 1999, the Committee remains concerned that the procedure used for unaccompanied minors is not always in their best interests nor fully in line with relevant provisions of the Convention. In addition, in relation to the reservation made to article 10 of the Convention, the Committee is concerned that the right to family reunification is too restricted.

The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party (CRC/C/118).

Syrian Arab Republic

The Committee regrets that no review has been undertaken with respect to the reservations since the presentation of the initial report. Noting the State party's reasoning in the report, it reiterates its concern that the nature of the general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention. In particular, concerning article 14, the reservation gives rise to infringements of the freedoms of thought, conscience and religion; concerning articles 20 and 21, the reservation is unnecessary: the Committee points out that article 20 (3) of the Convention expressly recognizes *kafalah* as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

The Committee recommends that the State party, in accordance with the Vienna Declaration and Plan of Action, and taking account of the Human Rights Committee's general comment No. 22, study its reservation, particularly concerning articles 14, 20 and 21, with a view to withdrawing it (CRC/C/132).

The Committee is concerned that the broad nature of the reservations made by the State party to articles 14, 20 and 21 of the Convention may cause misunderstandings about the nature of the State's commitment to implementing the rights covered by these articles.

The Committee encourages the State party to review its reservations to articles 14, 20 and 21 of the Convention. In this regard, the Committee underlines that interpretative declarations by the State party might have the desired effect of clarifying the State position in respect of these particular rights (A/53/41).

Thailand

While noting with appreciation that the State party has withdrawn its reservation with respect to article 29 of the Convention, the Committee is concerned at the remaining reservations (to arts. 7 and 22), made by the State party upon ratification of the Convention. In this regard, the Committee notes that the State party has recently (1997) ratified without reservation the International Covenant on Civil and Political Rights, and wishes to draw attention in particular to the provisions of articles 2 and 24 of the Covenant. In the light of the Vienna Declaration and Programme of Action of 1993 and the recent ratification of the International Covenant on Civil and Political Rights, the Committee encourages the State party to consider the possibility of reviewing its reservations with a view to withdrawing them (A/55/41).

Tunisia

In light of the previous recommendations (*ibid.*, para. 10), the Committee notes with satisfaction the withdrawal, on 1 March 2002, of the reservation with regard to article 40, paragraph 2 (b) (v), and the declaration in which the State party declared that "its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal".

While welcoming the State party's withdrawal of its reservation with regard to article 40, paragraph 2 (b) (v), and its declaration, as noted above, and noting the statement by the delegation that consideration will be given to withdrawing the remaining reservations, the Committee remains concerned about the extent of reservations and declarations made to the Convention by the State party. In particular, the Committee reiterates that the reservation relating to the application of article 2 appears to be incompatible with the object and purpose of the Convention.

The Committee, in line with its previous recommendation, and in light of the Vienna Declaration and Programme of Action (1993), encourages the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, in particular the reservation relating to article 2 (CRC/C/118).

The Committee is concerned about the extent of the reservations and declarations made to the Convention by the State party. In particular, the reservation relating to the application of article 2 raises concern as to its compatibility with the object and purpose of the Convention.

In the spirit of the final document of the World Conference on Human Rights, the Committee wishes to encourage the State party to consider reviewing its reservations and

declarations to the Convention with a view to withdrawing them, including particularly the reservation relating to article 2 of the Convention (CRC/C/43).

Turkey

The Committee notes with concern the reservations to articles 17, 29 and 30 of the Convention. It also notes that, in some cases, in particular in the fields of education and freedom of expression and the right to enjoy their own culture and use their own language, these reservations may have a negative impact on children belonging to ethnic groups which are not recognized as minorities under the Treaty of Lausanne of 1923, in particular children of Kurdish origin.

The Committee encourages the State party to consider withdrawing its reservations to articles 17, 29 and 30 of the Convention (CRC/C/108).

United Arab Emirates

The Committee welcomes information by the delegation that the reservation to article 21 will be withdrawn. However, the Committee is concerned about the remaining reservations to the Convention entered by the State party. In particular:

(a) That the exercise of the rights in articles 7 and 17 are subject to their compatibility with domestic law; and

(b) That the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion.

The Committee emphasizes that it is long established in international law that States parties to a treaty cannot invoke provisions of their domestic laws as justification for their inability to perform obligations under a treaty. The Committee recommends that the State party:

(a) Withdraw its reservations to articles 7 and 21; and

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 and in the long term, to withdraw it in accordance with the Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993) (CRC/C/118).

United Kingdom of Great Britain and Northern Ireland

The Committee welcomes:

(a) The withdrawal of two reservations made to articles 32 and 37 (d) of the Convention (CRC/C/121).

The Committee takes note of the adoption by the State party of a Children's Act applicable to England and Wales. The Committee also observes that the State party has extended the application of the Convention to many of its dependent territories. The Committee welcomes the

intention of the State party to consider withdrawing the reservation it made to article 37 of the Convention as it relates to the procedures governing children's hearings in Scotland.

The Committee is concerned about the broad nature of the reservations made to the Convention by the State party which raise concern as to their compatibility with the object and purpose of the Convention. In particular, the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10.

The Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them, particularly in light of the agreements made in this regard at the World Conference on Human Rights and incorporated in the Vienna Declaration and Programme of Action (CRC/C/38).

United Kingdom of Great Britain and Northern Ireland (Hong Kong)

With the extension of the Convention to Hong Kong in September 1994 further reservations to the Convention applicable to the territory of Hong Kong were deposited by the Government of the United Kingdom. It is a matter of regret to the Committee that the State party has not yet decided to withdraw its reservations, particularly as they relate to the issues of working hours for children, of juvenile justice and of refugees (A/53/41).

United Kingdom of Great Britain and Northern Ireland (Isle of Man)

The Committee is concerned that the reservations made by the State party with respect to articles 32 and 37 (c) of the Convention on the Rights of the Child have not yet been withdrawn and are still applicable to the Isle of Man. The Committee welcomes the island's commitment to discussing further the possible withdrawal of all of its reservations to the Convention.

In the light of the 1993 Vienna Declaration and Programme of Action, the Committee encourages the State party to consider the possibility of reviewing its reservations with a view to their full withdrawal, including with respect to the Isle of Man. In order to remove the apparent obstacles to the withdrawal of the reservation to article 37 (c) of the Convention, the Isle of Man is encouraged to reinforce its efforts to complete the construction of a separate security unit for children deprived of their liberty.

The Committee notes the Isle of Man's reservation with respect to article 32 of the Convention and is concerned about the lack of information and adequate data on the situation with regard to child labour and economic exploitation in the island.

The Committee encourages the Isle of Man to consider withdrawing its reservation to article 32 of the Convention. The Committee recommends that the State party undertake a comprehensive study to assess the situation with regard to child labour in the Isle of Man. Additionally, the Committee encourages the Isle of Man to introduce and/or strengthen, where appropriate, monitoring mechanisms to ensure the enforcement of labour laws and to protect children from economic exploitation, particularly in the informal sector. The Committee also suggests that the State party consider extending to the Isle of Man ILO Convention No. 182 concerning the Elimination of the Worst Forms of Child Labour. The Committee further

suggests that the State party consider extending to the Isle of Man ILO Convention No. 138 concerning Minimum Age for Admission to Employment (CRC/C/100).

United Kingdom of Great Britain and Northern Ireland (Overseas Territories)

The Committee is concerned that the reservations made by the State party with respect to articles 32 and 37 (c) of the Convention on the Rights of the Child have not yet been withdrawn and are still applicable to the Overseas Territories. It also notes with concern that the reservation to article 22 of the Convention made in respect to the Cayman Islands has not yet been withdrawn. In the light of the 1993 Vienna Declaration and Programme of Action, the Committee encourages the State party to consider the possibility of reviewing the reservations with a view to their full withdrawal including with respect to all the Overseas Territories (CRC/C/100)

Annex 2

Tables of reservations, objections and withdrawals

Numbers next to a State in the rows of individual substantive provisions refer to the specific paragraph of the provision reserved or declared against, unless otherwise indicated.

The table is correct as of 23 March 2005.

A. International Convention on the Elimination of All Forms of Racial Discrimination

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Saudi Arabia	Antigua and Barbuda Bahamas Bahrain Barbados Guyana Iraq Jamaica Kuwait Libya Nepal Syria Thailand Turkey (two declarations) United Arab Emirates United Kingdom (two declarations) United States of America (three declarations) Yemen	Austria, Finland, Netherlands, Norway, Spain (to Saudi Arabia); Cyprus (to Turkey); France, Romania (to Thailand); Germany (to Saudi Arabia and Thailand); Sweden (to Saudi Arabia, Thailand and Turkey); United Kingdom (to Thailand and Turkey); Israel (to Bahrain, Iraq, Kuwait, Libya, Syria, United Arab Emirates, Yemen)		Denmark Egypt
Article 1 (definition and special measures)					

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 2 (condemnation and elimination of race discrimination)	Switzerland (1) United Kingdom	Monaco (1) United States of America (three with respect (1))			Tonga
Article 3 (condemnation and elimination of apartheid)	United Kingdom	United States of America			Tonga
Article 4 (condemnation and prohibition of racist organizations and activities)	Japan (a) and (b) Switzerland Thailand (a), (b) and (c)	Antigua and Barbuda (a), (b) and (c) Australia (a) Austria (a), (b) and (c) Bahamas (a), (b) and (c) Barbados (a), (b) and (c) Belgium (a), (b) and (c) Fiji (a), (b) and (c) France Ireland (a), (b) and (c) Italy (a) and (b) Malta (a), (b) and (c) Monaco Nepal (a), (b) and (c) Papua New Guinea* (a), (b) and (c) Tonga (a), (b) and (c) United Kingdom (a), (b) and (c)			

* None of the States concerned having objected to the reservation by the end of a period of ninety days after the date when it was circulated by the Secretary-General, the said reservation is deemed to have been permitted in accordance with the provisions of article 20 (1) of the Convention.

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 5 (equal enjoyment of rights)	Fiji (c) Tonga (d) United Kingdom (c), (d) and (e) Yemen (c) and (d) (three reservations)	United States of America	Australia, Belgium, Canada, Czechoslovakia, Denmark, Finland, France, Germany, Italy, Mexico, Netherlands, New Zealand, Norway, Sweden, United Kingdom (to Yemen)		Tonga (c) and (e)
Article 6 (right to effective protection and remedy)	China	Fiji France Italy Malta Nepal Tonga			
Article 7 (combating prejudice)					

Procedural/technical provisions

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 14 (individual complaints)		Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco,			

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Netherlands, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Russia, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Former Yugoslav Republic of Macedonia, Ukraine, Uruguay, Venezuela			
Article 15 (right of petitions)		Fiji France Tonga United Kingdom (two declarations)			
Article 17 (opening for signature)		Afghanistan Belarus (1) Bulgaria (1) Cuba Hungary (1) Mongolia (1) Poland (1) Romania Russia (1) Ukraine (1) Viet Nam (1) Yemen (1)			

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 18 (opening for accession)		Afghanistan Bulgaria (1) Cuba Hungary (1) Poland (1) Romania Viet Nam (1) Yemen (1)			
Article 20 (reservations regime)		Fiji Tonga United Kingdom			
Article 22 (ICJ dispute resolution)	Afghanistan Bahrain China* Cuba Egypt Equatorial Guinea Indonesia Iraq Israel Kuwait Lebanon Libya Madagascar Morocco Mozambique Nepal Rwanda Saudi Arabia Syria Thailand Turkey United States of America Viet Nam* Yemen	India	Pakistan (to India)		Belarus Bulgaria Czechoslovakia Hungary Mongolia Poland Romania Russia Spain Ukraine

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 26		Belarus (1)			

B. International Covenant on Civil and Political Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
Global		Australia France Iraq Portugal/China (two declarations) Turkey (three declarations) United Kingdom (three declarations) United States of America (declarations) Syria	Cyprus, Germany, Greece and Sweden (to Turkey); Netherlands (to United States of America); Israel (Iraq and Syria)		
Article 1 (self-determination)		Algeria (article as a whole and para. 3) India Romania (3) Thailand (1) United Kingdom	France, Germany, Netherlands (to India)		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
Article 2 (remedy)		Austria (1) Germany (1) Kuwait (1 and 3) Monaco (two declarations to paragraph 1, and one to paragraph 2) United States of America (1)	Finland and Sweden (to Kuwait and United States of America); United Kingdom (to Australia)		Australia Belgium
Article 3 (sex equality in Covenant provisions)		Kuwait Liechtenstein Monaco	Finland and Sweden (to Kuwait)		Belgium
Article 4 (derogation) ²	France (1) Trinidad and Tobago (2)	United States of America (1)	Finland and Sweden (to United States of America); Germany and Netherlands (to Trinidad and Tobago)		
Article 5 (savings)					
Article 6 (life)	United States of America	Thailand (5)	Belgium, Denmark, Finland, France, Germany, Portugal, Spain and Sweden (to United States of America); Netherlands (to United States of America and Thailand)		Ireland Norway
Article 7 (torture and cruel, inhuman or degrading treatment or punishment)	Botswana United States of America		Denmark, Italy Netherlands, Portugal, Spain and Sweden (to United States of America and Botswana); Finland, Germany (to United States		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
			of America); Austria, France and Ireland (to Botswana)		
Article 8 (slavery)			Norway (to Kuwait)		Iceland
Article 9 (detention)	Austria France	India (article as a whole and paragraph 5) Italy (5) Mexico (5) Thailand (3) United States of America (5)	Norway (to Kuwait)		Finland
Article 10 (treatment of prisoners)	Australia (two reservations to paragraph 2 and one to paragraph 3) Austria (3) Belgium (2 and 3) Denmark (3) Finland (2 and 3) Iceland (2 and 3) Ireland (2) Netherlands (2 and 3) New Zealand (2, and two reservations to paragraph 3) Norway (2 and 3) Sweden (3) Switzerland (2) Trinidad and Tobago (2 and 3)	Bangladesh (3) Luxembourg (3) United States of America (2 and 3)	United Kingdom (to Australia) (2)	Australia	

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
	United Kingdom (two reservations to paragraph 2 and one to paragraph 3) United States of America (2 and 3, each two reservations)				
Article 11 (imprisonment for inability to fulfil contractual obligation)	Congo United Kingdom	Bangladesh	Belgium, United Kingdom and Netherlands (to Congo)		
Article 12 (freedom of movement, entry and exit)	Austria (4) Belize Botswana (3) Netherlands (1, 2 and 4) Portugal (2) Switzerland (1) Trinidad and Tobago (2) United Kingdom (1 and 4)	Italy (4)	Austria, Denmark, France, Ireland, Italy, Netherlands and Sweden (to Botswana)		
Article 13 (removal of aliens)	Iceland Malta Mexico Portugal United Kingdom	France Monaco			Finland
Article 14 (fair trial and appeal)	Australia (6) Austria (2 reservations to whole article, and further reservations to paragraphs 3, 5 and 7) Bangladesh (3) Barbados (3) Belgium (1 and 5) Belize (2) Denmark (1, 5 and 7)	Bangladesh (3 and 6) France (5) Germany (3 and 5) Italy (3 and 5) Luxembourg (two declarations to paragraph 5) Monaco (5) United Kingdom (3)	Netherlands, United Kingdom and Czechoslovakia (to Republic of Korea) (2)	Australia Luxembourg ³ Norway	Finland (2) Ireland Republic of Korea Switzerland

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
	Finland (7) France Gambia (3) Guyana (3 and 6) Iceland (7) Ireland Liechtenstein (1) Malta (2 and 6) Netherlands (3, 5 and 7) New Zealand (6) Norway (two reservations to paragraph 5, and one to paragraph 7) Republic of Korea (5) Sweden (7) Switzerland (two reservations to para. 1 and one to para. 5) Trinidad and Tobago (5 and 6) United Kingdom (3) United States of America (4 - two reservations) Venezuela (3)	United States of America (two reservations to paragraph 3, and one each to paragraphs 6 and 7)			
Article 15 (criminal retroactivity)	United States of America (1)	Argentina Germany (1) Italy (1) Trinidad and Tobago (1) ⁴	Sweden (to United States of America)		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
Article 16 (legal personality)					
Article 17 (interference with family life and privacy)	Liechtenstein (1)				Australia
Article 18 (freedom of thought and religion)		Mauritania Mexico (3)			
Article 19 (freedom of opinion and expression)	Australia Belgium Ireland (2) Malta Netherlands (2) United Kingdom	Australia Austria France Germany Italy (3) Luxembourg (2) Malta Monaco United Kingdom United States of America (3)			Australia France
Article 20 (prohibited forms of expression)	Australia Denmark (1) Finland (1) Iceland (1) Ireland (1) Malta Netherlands (1) New Zealand Norway (1) Sweden (1) Switzerland (1) United Kingdom United States of America	Australia Belgium (as a whole and para. 1) France Luxembourg (as a whole and para. 1) Malta Thailand (1) United Kingdom			Liechtenstein Switzerland

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
Article 21 (peaceful assembly)	Australia Belgium Trinidad and Tobago United Kingdom	Australia Austria France Germany Monaco United Kingdom			
Article 22 (association)	Belgium Malta New Zealand Republic of Korea	Austria Algeria France Germany Japan (2) Monaco	Netherlands, United Kingdom and Czechoslovakia (to Republic of Korea); Germany (to Algeria and Republic of Korea)		
Article 23 (protection of family unit)	Israel United Kingdom (3)	Algeria (4) Belgium (2) Kuwait Mauritania (4)	Finland and Sweden (to Kuwait) Portugal, Germany (to Algeria)		Ireland Republic of Korea
Article 24 (protection of children)	Liechtenstein (3) United Kingdom (3)		Sweden (to a general understanding of the United States of America as applied to article 24)		
Article 25 (political rights)	Kuwait (b) Mexico (b) Portugal (b) Switzerland (b) United Kingdom (b)	Monaco (3 declarations) United Kingdom (2)	Finland and Sweden (to Kuwait)	Mexico	Australia Belgium Netherlands United Kingdom
Article 26 (equality before law and non-discrimination)	Liechtenstein Switzerland Trinidad and Tobago	Austria Monaco Ukraine (1) United States of America	Finland (to United States of America)		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections ¹	Withdrawal (partial)	Withdrawal (total)
Article 27 (minority rights)	Turkey	France	Finland, Germany, Portugal and Sweden (to Turkey); Germany (to France)		

Procedural/technical provisions

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 41 (State to State complaints)		Algeria, Argentina, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Belgium, Canada, Chile, Congo, Croatia, Czech Republic, Denmark, Ecuador, Finland, Gambia, Germany, Ghana, Guyana, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Republic of Korea, Russia, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom, United States of America, Zimbabwe			

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 47 (Non-impairment of inherent resource rights)		United States of America			
Article 48 (Opening for signature)		Afghanistan (1 and 3) Belarus (1) Bulgaria (1 and 3) Guinea (1) Hungary (1 and 3) Mongolia (1) Romania (1) Russia (1) Syria (1) Turkey (1) Viet Nam (1)			

C. First Optional Protocol to the International Covenant on Civil and Political Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (whole)
Global		Chile El Salvador Guatemala Ireland			
Article 1 (Committee's complaint competence)		Croatia France Malta Russian Federation Slovenia Sri Lanka Trinidad and Tobago	Denmark, France, Germany, Ireland, Italy, Netherlands, Norway, Spain, Sweden (to Trinidad and Tobago)		Trinidad and Tobago subsequently denounced the Optional Protocol

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (whole)
Article 2 (Right of communication)					
Article 3 (Basic inadmissibility criteria)					
Article 4 (Exchanges of submissions)					
Article 5 (Committee consideration)	Denmark (2) France (2) Germany (three reservations to para. 2) Iceland (2) Ireland (2) Norway (2) Poland (2) Slovenia (2) Uganda (2)	Austria (2) Croatia (2) Italy (2) Luxembourg (2) Malta (2) Romania (2) Spain (2) Sweden (2)			
Article 6 (Reporting requirement)	Guyana ⁵		Finland, France, Germany, Netherlands, Poland, Spain, Sweden (to Guyana)		
Article 7 (Savings)		France			

Venezuela reiterated its reservation to article 14 of the Covenant on becoming party to the Optional Protocol.

D. International Covenant on Economic, Social and Cultural Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global		China Egypt France Iraq Libya	Cyprus, Germany, Greece, Portugal (to Turkey) Denmark (to Pakistan) Sweden (to Pakistan)		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Pakistan Portugal/China (two declarations) Syria Turkey (three declarations) United Kingdom Yemen	and Turkey); Israel (Libya, Iraq and Syria)		
Article 1 (self-determination)		Algeria (whole article and 3) Bangladesh Guinea (3) India Romania (3) Thailand (1) United Kingdom	France, Germany, Netherlands (to Bangladesh and India) Portugal (to Algeria) Sweden (to Bangladesh)		
Article 2 (realization of rights and non-discrimination)	Ireland (2)	Bangladesh Belgium (2 and 3) Kuwait (2) Monaco (2) United Kingdom (3)	Finland, Italy, Norway (to Kuwait) Denmark and France (to Bangladesh) Germany, Netherlands, Sweden (to Kuwait and Bangladesh)		
Article 3 (sex equality)		Bangladesh Kuwait	Finland, Italy, Norway (to Kuwait) Denmark and France (to Bangladesh) Germany, Netherlands, Sweden (to Kuwait and Bangladesh)		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 4 (limitations)		India			
Article 5 (savings)					
Article 6 (work)	China United Kingdom	France Monaco			
Article 7 (conditions of work)	Barbados (a) ⁶ Denmark (d) Japan (d) Sweden (d) United Kingdom (a)	Bangladesh India (c)	Denmark, France, Germany, Netherlands, Sweden (to Bangladesh)		Denmark (a)
Article 8 (trade unions and strikes)	China (1) Japan (1) Kuwait (1) New Zealand Norway (1) Trinidad and Tobago (1 and 2) United Kingdom (1)	Algeria Bangladesh China (1) France India Japan (2) Mexico Monaco (whole, 1 and 2)	Finland, Italy (to Kuwait); Denmark and France (to Bangladesh); Norway (to Kuwait and China); Portugal (to Algeria); Netherlands, Sweden (to Kuwait, China and Bangladesh); Germany (to Algeria, Bangladesh and Kuwait)		
Article 9 (social security)	United Kingdom	France Kuwait Monaco	Finland, Germany, Italy, Netherlands, Norway, Sweden (to Kuwait)		
Article 10 (family, maternal and child protection)	Barbados (2) New Zealand (2)	Bangladesh Kenya (2)	Denmark, France, Germany (to Bangladesh)	New Zealand (2)	
Article 11 (standard of living)		France Monaco			

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 12 (health)					
Article 13 (education)	Barbados (2) Ireland (2) Japan (2) Madagascar (2) Turkey (3 and 4) United Kingdom (2) Zambia (2)	Algeria (3 and 4) Bangladesh France India Malta Monaco	Denmark (to Bangladesh) Finland, Portugal, Sweden (to Turkey) Netherlands (to Algeria) Portugal (to Algeria) Germany (to Bangladesh and Turkey)		Congo (3 and 4)
Article 14 (primary education)	United Kingdom	Algeria Guinea Romania			
Article 15 (cultural life, scientific progress, intellectual property)					

Procedural/technical provisions

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 26 (Opening for signature)		Afghanistan (1 and 3) Bulgaria (1 and 3) Guinea (1) Hungary (1 and 3) Mongolia (1) Ukraine (1)			Belarus

		Romania (1) Russia Syria (1) Viet Nam (1)			
--	--	--	--	--	--

E. Convention on the Elimination of All Forms of Discrimination against Women

Substantive provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Iraq Maldives ⁷ Mauritania Saudi Arabia Singapore Syrian Arab Republic Libyan Arab Jamahiriya ⁸ {Pakistan, Thailand, Tunisia} ⁹	Australia France Netherlands Germany	Israel (to Iraq) Finland, Denmark, Austria, Canada, Germany, Netherlands, Norway, Portugal, Sweden (to Maldives); Ireland, France, Austria and Denmark, Finland, Germany, Netherlands, Norway, Portugal, Sweden, United Kingdom (to Mauritania); Denmark and Portugal, Austria, Finland, Germany, Netherlands, Norway (to Pakistan); Denmark, Sweden, Finland, Netherlands (to Singapore); Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom (to Saudi Arabia);		New Zealand ¹⁰ United Kingdom ¹¹

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Denmark and Finland, Germany, Mexico, Netherlands, Norway, Sweden (to Libyan Arab Jamahiriya)		
Article 1 (definition)	Liechtenstein United Kingdom ¹²				United Kingdom ¹³
Article 2 (incorporation equal treatment in legislation)	Algeria Bahamas (a) Bahrain, Bangladesh, Egypt Democratic Peoples Republic of Korea, (f) Iraq (f and g) Lesotho (e) Libyan Arab Jamahiriya Micronesia (f) Morocco ¹⁴ New Zealand (f) Niger (d and f) Singapore Syrian Arab Republic United Arab Emirates United Kingdom (f and g) ¹⁵		Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); Austria, Finland, France, Germany, Netherlands Ireland, Denmark, Norway, Portugal, Spain, Sweden, United Kingdom (to Democratic Peoples Republic of Korea); Denmark, Finland, Netherlands, Norway (to Lesotho); France and Netherlands, Norway, Denmark and Finland, Sweden (to Niger); Denmark and Sweden,		United Kingdom ¹⁶ (f and g) Malaysia (f)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Finland, Netherlands, Norway (to Singapore); Austria, Denmark, Finland, Germany, Greece, Netherlands, Sweden, United Kingdom (to Bahrain); Austria, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Romania, Spain, Sweden, United Kingdom (to Syrian Arab Republic); Finland, Germany, France, Denmark, Netherlands, Norway (to Malaysia); Germany, Netherlands, Sweden (to Egypt); Germany, Mexico, Netherlands, Sweden (to Bangladesh); Germany, Mexico, Netherlands, Sweden (to Iraq) Mexico, Sweden (to New Zealand); Netherlands (to Morocco)		
Article 4 (temporary special measures)		United Kingdom ¹⁷			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 5 (modify customary practices)	Malaysia (a) ¹⁸ Micronesia New Zealand (a) ¹⁹ Niger (a)	France India (a) Niger (b)	United Mexican States, ²⁰ Germany, Mexico, Netherlands, Sweden (to Malawi); Denmark, Germany, Finland, France and Netherlands, Norway ²¹ (to Malaysia); France and Netherlands, Denmark, Finland, Norway, Sweden (to Niger); Mexico, Sweden (to New Zealand); Netherlands (to India); Netherlands (to Fiji)		Fiji (a) France (b) Malawi ²²
Article 7 (right to participate in public and private life)	Australia ²³ Israel (b) Kuwait (a) Luxembourg Malaysia (b) ²⁴ Maldives (a) ²⁵ New Zealand Spain ²⁶		Belgium, Austria, Portugal, Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait); Denmark France, Netherlands Germany, Finland, Norway (to Malaysia), ²⁷ Finland, Germany (to Thailand); Finland, Germany (to Maldives)		Austria (b) Belgium France Germany (b) Switzerland (b) Thailand
Article 9 (nationality law)	Algeria (2), Bahamas (2), Bahrain (2) Democratic Peoples		Sweden, Portugal, Denmark, Germany, Netherlands, Norway	United Kingdom ³²	Cyprus(2) Fiji Ireland (1)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Republic of Korea (2) Egypt (2) Iraq (1 and 2) Kuwait (2) Lebanon (2) Malaysia ²⁸ Morocco (2) Saudi Arabia (2) Syrian Arab Republic of Korea (2) Tunisia (2) Turkey (1) United Arab Emirates United Kingdom ²⁹ Jordan ³⁰ (2)		(to Algeria); Ireland, Denmark, Austria, Finland, France, Germany, Netherlands, Norway, Portugal, Spain, Sweden (to Democratic Peoples Republic of Korea); Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait) Denmark, France, Netherlands, Finland and Germany, Norway (to Malaysia), ³¹ Austria, Netherlands, Sweden, Denmark (to Lebanon); Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain (to Saudi Arabia); Austria, Denmark, Estonia, Finland, France, Germany, Italy, Netherlands, Norway, Romania, Spain, Sweden (to Syrian Arab Republic); Austria, Denmark, Finland, France, Germany, Netherlands, Sweden (to Bahrain); Germany, Mexico, Netherlands, Sweden		Jamaica (2) Liechtenstein (2) Thailand (2) Republic of Korea

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			(to Egypt); Germany, Mexico, Netherlands, Sweden (to Jamaica); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands, Sweden (to Tunisia); Germany, Mexico, Israel Netherlands, Sweden (to Iraq (1)); Germany, Israel, Mexico, Netherlands (to Iraq (2)); Mexico (to Cyprus); Netherlands (to Morocco and Fiji); Sweden (to Jordan); Germany, Mexico, Netherlands, Sweden (to Republic of Korea)		
Article 10 (education)			Germany (to Thailand)		Thailand United Kingdom ³³ (C)
Article 11 (employment)	Australia (2) Austria (<i>applying provision on night work within limits established by national legislation</i>)	United Kingdom ³⁵	Denmark, Netherlands, Finland, Germany, France, Norway (to Malaysia); Denmark and Sweden, Finland, Netherlands, Norway	United Kingdom partial withdrawal of declaration and reservation ³⁶	Canada (1) (d) Ireland (1) Mauritius (1) (b and d) New Zealand (2) (b) ³⁷ Thailand (1) (b)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Malaysia Malta Micronesia (1) (d) and (2) (b) New Zealand (2) (b) Singapore (1) United Kingdom ³⁴		(to Singapore); Germany, Mexico, Netherlands, Sweden (to Mauritius); Germany (to Thailand)		
Article 13 (economic and social life)	Malta United Kingdom ³⁸		Germany, Netherlands, Sweden, Mexico (to Bangladesh)		Bangladesh (a) Ireland (a, b and c) United Kingdom ³⁹
Article 14 (rural women)	France (2) (c and h)				
Article 15 (equality before the law)	Algeria, Bahrain, (4) Malta Morocco ⁴⁰ Niger (4) Syrian Arab Republic (4) Switzerland (2) Tunisia (4) United Arab Emirates (2) United Kingdom (4) ⁴¹ Jordan (4) ⁴²	United Kingdom (2 and 3) ⁴³	Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); France and Netherlands, Denmark, Finland, Norway, Sweden (to Niger); Austria, Denmark, Finland, France, Germany, Netherlands, Sweden (to Bahrain); Austria, Denmark, Estonia, Finland, France, Germany, Italy, Netherlands, Norway, Romania, Spain, Sweden (to Syrian Arab Republic); Germany, Netherlands, Sweden (to Brazil); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands,	United Kingdom (2) ⁴⁴	Belgium (2 and 3) Brazil (4) France (2) and (3) Ireland (3 and 4) Thailand (3) Turkey (2) and 4)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Sweden (to Tunisia); Germany, Mexico, Netherlands(to Turkey); Netherlands (to Morocco); Sweden (to Jordan)		
Article 16 (equal treatment matters family law)	Algeria Bahamas (h) Bahrain Egypt France (1) (g) Iraq Ireland (1) (d and f) Israel Kuwait (f) Lebanon (1) (c, d, f, and g) Libyan Arab Jamahiriya (c and d) Luxembourg (1) (g) Malaysia (1) (a) (2) ⁴⁵ Maldives ⁴⁶ Malta (1) (e) Micronesia Morocco Niger (1) (c, e, and g) Republic of Korea (1) (g) Singapore Syrian Arab Republic	India (1 and 2)	Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); Belgium, Austria and Portugal, Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait); Austria, Denmark, Netherlands, Sweden (to Lebanon); Denmark, Finland, France, Germany and Netherlands, Norway ⁴⁹ (to Malaysia); France, Netherlands, Denmark ⁵⁰ , Finland, Norway, Sweden (to Niger); Denmark and Sweden, Finland, Netherlands, Norway (to Singapore); Austria, Sweden (to Lebanon); Austria, Denmark	Republic of Korea (1) (c, d and f)	Bangladesh (1) (c) and (f) Brazil (1) (a, c, g, and h) France (1) (c, d, and h) Mauritius (1) (g) Turkey (1)(c, d, f, and g) United Kingdom (1) ⁵¹ (undertaking only) Malaysia (b, d, e, and h)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	(1) (c, d, f and g) and (2) Switzerland (1) (g and h) Thailand Tunisia (c, d, f, g, h) United Arab Emirates United Kingdom ⁴⁷ (1) (f) Jordan (1) (c, d, g) ⁴⁸		Finland, France Germany, Greece, Netherlands, Sweden, United Kingdom (to Bahrain); Austria, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Romania, Spain, Sweden, United Kingdom (to Syrian Arab Republic); Finland (to Libyan Arab Jamahiriya); Germany, Mexico, Netherlands, Sweden (to Egypt); Germany, Mexico, Netherlands, Sweden (to Bangladesh); Germany, Netherlands, Sweden (to Brazil); Mexico, Sweden, Germany, Netherlands (to Korea); Germany, Mexico, Netherlands, Sweden (to Mauritius); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands, Sweden (to Tunisia); Germany, Mexico, Netherlands (to Turkey); Germany, Mexico, Netherlands,		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Sweden (to Iraq); Netherlands (to India and Morocco); Sweden (to Jordan); Germany and Finland (to Maldives)		

Procedural provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 29 (dispute resolution)	Algeria, Argentina, Bahamas, Bahrain, Brazil, China, Cuba, Korea, Egypt, El Salvador, Ethiopia, France, India , Indonesia, Iraq, Israel, Jamaica, Kuwait, Lebanon, Mauritius, Micronesia, Morocco, Myanmar, Niger, Pakistan, Saudi Arabia, Singapore, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, Venezuela, Vietnam, Yemen (1)				Russian Federation, Belarus, Ukraine, Bulgaria, Hungary, Malawi, Mongolia, Poland, Romania, Czech Republic

F. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Substantive provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Ecuador Qatar Syrian Arab Republic	Chile Germany Holy See	Italy, Denmark, Portugal, United Kingdom of Great Britain and Northern Ireland, Finland, France, Germany, Luxembourg, Netherlands, Norway, Spain, Sweden (to Qatar)		
Article 1 (definition)	Botswana	Luxembourg (1) Netherlands (1) United States of America	Denmark, Norway, Sweden (to Botswana); Netherlands, Sweden, Germany (to United States of America)		
Article 2 (preventative measures)		Cuba (1)	Italy, Denmark, Luxembourg, Czechoslovakia, France, Sweden, Spain, Norway, Portugal, Greece, Finland, Canada, Turkey, Australia, Netherlands, Switzerland, United Kingdom of Great Britain and Northern Ireland, Austria, New Zealand, and Bulgaria (to Chile (3))		Chile

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 3 (non-refoulement)		United States of America Germany	Italy, Denmark, Luxembourg, Czechoslovakia, France, Sweden, Spain, Norway, Portugal, Greece, Finland, Canada, Turkey, Australia, Netherlands, Switzerland, United Kingdom of Great Britain and Northern Ireland, Austria, New Zealand, and Bulgaria (to Chile); Netherlands, Sweden, Germany (to United States of America)		Chile
Article 5 (jurisdiction)		Austria			
Articles 10-13 (education on torture, systematic review practices etc., prompt and impartial investigation and examination)		United States of America			
Article 14 (right to compensation)	New Zealand Bangladesh ⁵²	United States of America	Finland, France, Spain, Germany,		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		United States of America	Sweden, Netherlands (to Bangladesh); Germany (to United States of America)		
Article 15 (evidence extracted by torture)		Austria			
Article 16 (cruel, inhuman, or degrading treatment or punishment)	United States of America	United States of America	Finland, Netherlands, Sweden, Germany (to United States of America)		

Procedural provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 17 (establishment of Committee)		Germany	United Kingdom of Great Britain and Northern Ireland, ⁵³ France, Luxembourg, Sweden, Austria, Denmark, Norway, Canada, Greece, Spain, Switzerland, Italy, Portugal, Australia, Finland, New Zealand and Netherlands (to Germany) ⁵⁴		Germany (7)
Article 18 (rules of procedure and expenses)		Germany (5)	United Kingdom of Great Britain and Northern Ireland, France, Luxembourg, Sweden, Austria, Denmark, Norway, Canada, Greece, Spain, Switzerland, Italy,		Germany (5)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Portugal, Australia, Finland, New Zealand and Netherlands (to Germany)		
Article 20 (inquiry)	Afghanistan China Equatorial Guinea ⁵⁵ Israel Kuwait Mauritania Morocco Saudi Arabia Syrian Arab Republic	Cuba Indonesia			Russian Federation, Belarus, Ukraine, Bulgaria, Chile, Czechoslovakia Slovakia, Germany, Guatemala, Hungary, Zambia, Bahrain
Article 21 (inter-State complaints)		Germany, Algeria, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, ⁵⁶ Bulgaria, Cameroon , Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Malta,			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Monaco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russian Federation, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (1)			
Article 22 (individual complaints)		Germany, Algeria, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, ⁵⁷ Azerbaijan, Bulgaria, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Netherlands, New Zealand, Norway, Paraguay,			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Peru, Poland, Portugal, Russian Federation, Senegal, Seychelles, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Ukraine, Uruguay, Venezuela (1)			
Article 30 (dispute settlement)	Afghanistan Cuba ⁵⁸ Ghana ⁵⁹ Bahrain China Equatorial Guinea France, Indonesia Israel Kuwait Mauritania Monaco Panama Saudi Arabia Turkey United States of America	South Africa			Russian Federation, Belarus, Ukraine Bulgaria, Czechoslovakia, Germany, Guatemala, Hungary

G. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

None.

H. Convention on the Rights of the Child

Substantive provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Brunei Darussalam Djibouti ⁶⁰ Holy See Iran Kuwait Luxembourg ⁶¹ New Zealand Oman Qatar Saudi Arabia Singapore Syrian Arab Republic Thailand Tunisia ⁶² United Kingdom ⁶³	Denmark ⁶⁴ Holy See Monaco Swaziland Switzerland United Kingdom ⁶⁵	Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Czech Republic, Slovak Republic, Ireland, Portugal (to Kuwait); Sweden, Denmark, Netherlands, Ireland, Norway, Portugal (to Djibouti); Netherlands, Ireland, Portugal, Netherlands (to Indonesia); Denmark, Austria, Italy, Finland, Germany, Ireland, Netherlands, Portugal, Norway, Sweden (to Iran); Denmark Netherlands, Finland, Ireland, Portugal, Sweden (to Pakistan); Sweden, Denmark, Austria Belgium, Finland, Germany, Italy, Netherlands, Norway, Portugal, Slovakia (to Qatar); Finland, Austria,		Denmark Indonesia Pakistan Tunisia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Ireland, Netherlands, Norway, Sweden, Portugal (to Saudi Arabia); Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands, Norway (to Singapore); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic); Sweden (to Thailand); Germany and Ireland (to Tunisia); Finland, Germany, Netherlands, Norway, Sweden (to Oman)		
Article 1 (definition)	Botswana Malaysia	Argentina Cuba Liechtenstein	Denmark, Germany, Italy, Netherlands (to Botswana); Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Austria, Belgium, Denmark, ⁶⁶ Finland, Ireland, Netherlands, Portugal,		Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Sweden, Germany Norway (to Malaysia)		
Article 2 (discrimination)	Cook Islands Malaysia Tunisia	Bahamas Belgium (1) Cook Island (1)	Austria, Belgium, Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Germany Ireland (to Tunisia)		
Article 3 (best interests of the child)	Luxembourg	Cook Islands (2) Germany (2)			
Article 5 (parental/guardian rights)					Switzerland
Article 6 (right to life)	China Luxembourg	France Tunisia			
Article 7 (right to name, nationality, registration, to know and cared for by parents)	Liechtenstein Luxembourg Malaysia Oman Poland Switzerland Tunisia United Arab Emirates Thailand	Andorra) Czech Republic (1) Monaco Kuwait	Austria, Belgium and Denmark, Finland Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Ireland (to Thailand); Austria, Netherlands (to United Arab Emirates); Finland, Germany, Netherlands, Norway, Portugal (to Oman); Ireland (to Tunisia); Netherlands (to Liechtenstein); Netherlands ⁶⁷ (to Andorra)		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 8 (preservation of identity)		Andorra	Netherlands (to Andorra)		
Article 9 (separation from parents)	Bosnia and Herzegovina (1) Japan (1) Oman (4) Republic of Korea (3)	Iceland	Finland, Germany, Netherlands, Norway, Sweden (to Oman)		Croatia(1) Serbia and Montenegro (1) Slovenia (1)
Article 10 (family reunification)	Cook Islands Japan (1) Liechtenstein (2) Switzerland (1)		Netherlands (to Liechtenstein)	Liechtenstein (2)	
Article 12 (right to freely express views)		Poland Singapore Kiribati			
Article 13 (freedom of expression)	Austria Holy See Malaysia	Algeria Belgium ⁶⁸ Poland Singapore Kiribati	Austria, Belgium, Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia)		
Article 14 (freedom thought, conscience and religion)	Algeria (1 and 2) ⁶⁹ Bangladesh Brunei Darussalam Holy See Iraq Jordan Malaysia Maldives Morocco	Belgium Netherlands Poland Singapore Kiribati	Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Netherlands, Finland, Ireland, Norway, Portugal, Sweden		Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Oman Syrian Arab Republic United Arab Emirates		(to Indonesia); Finland, Ireland, Sweden (to Jordan); Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Denmark, Netherlands, Finland, Germany Italy, Norway, Sweden (to Syrian Arab Republic); Austria, Italy, Netherlands (to United Arab Emirates); Finland, Germany, Netherlands, Norway, Sweden (to Oman); Ireland, Portugal (to Bangladesh)		
Article 15 (freedom of association and peaceful assembly)	Austria Holy See Luxembourg Malaysia	Belgium, ⁷⁰ Poland Singapore Kiribati	Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia) Sweden, Germany, Ireland, Portugal (to Myanmar)		Myanmar
Article 16 (freedom arbitrary or unlawful interference)	Holy See Mali	Algeria Poland Singapore Kiribati	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia)		Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 17 (right to access to information)	Austria Turkey United Arab Emirates	Algeria Singapore	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia) Austria, Italy (to United Arab Emirates); Ireland, Portugal (to Turkey)		Indonesia
Article 18 (responsibility for upbringing and development)		Germany (1)			
Article 19 (protection from abuse)		Singapore	Norway (to Singapore)		
Article 20 (deprived of family environment)	Brunei Darussalam Jordan Syrian Arab Republic		Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Finland, Ireland, Sweden (to Jordan); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic)		Egypt
Article 21 (adoption)	Argentina (b, c, d, e) Bangladesh Brunei Darussalam Canada	Spain (d) Venezuela (b, d)	Sweden, Ireland, Portugal (to Bangladesh); Ireland, Finland, Sweden,		Egypt Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Jordan Maldives Oman Republic of Korea (a) Syrian Arab Republic United Arab Emirates		Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Finland, Ireland, Sweden (to Jordan); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic); Austria, Italy (to United Arab Emirates); Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Finland, Germany, Netherlands, Norway, Sweden (to Oman)		
Article 22 (refugee children)	Mauritius Thailand	Netherlands United Kingdom ⁷¹	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Ireland (to Thailand)		Indonesia Malaysia
Article 24 (health)	Holy See Kiribati (b, c, d, e, f)	Argentina (2) (f) Ecuador Poland (2) (f)	Sweden, Austria, Netherlands, Portugal (to Kiribati)		
Article 26 (right to social security)	Kiribati Netherlands		Sweden, Austria, Netherlands, Portugal (to Kiribati)		Malta

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 28 (education)	Holy See Kiribati (b, c, d) Malaysia (1) (a) Samoa (1) (a) Singapore (1) (a)	Malaysia (1) (a)	Sweden, Austria, Netherlands, Portugal (to Kiribati); Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands (to Singapore)		Malaysia (1) (a, c, d, e) (2) and (3)
Article 29 (direction of education)	Turkey		Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Sweden, Ireland (to Thailand) Ireland, Portugal (to Turkey)		Indonesia Thailand
Article 30 (minorities)	France Oman Turkey	Canada Venezuela	Finland, Germany, Netherlands, Norway, Sweden (to Oman); Ireland, Portugal (to Turkey)		
Article 32 (economic exploitation)	New Zealand (1, 2) Singapore India 2(a) ⁷²	United Kingdom ⁷³	Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands (to Singapore)		United Kingdom ⁷⁴

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 37 (freedom torture ill-treatment, capital punishment and life imprisonment, deprivation liberty)	Australia (c) Canada (c) Cook Islands (c) Japan (c) Malaysia Netherlands New Zealand (c) Switzerland (c) United Kingdom ⁷⁵ (c)	Iceland Singapore	Belgium and Denmark, Austria, Finland Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Germany, Ireland, Portugal (to Myanmar); Norway (to Singapore)		Myanmar United Kingdom (d)
Article 38 (armed conflicts)	Columbia (2 and 3) Uruguay (2, 3) ⁷⁶	Andorra (2 and 3) Argentina Austria (2 and 3) Columbia Ecuador Germany (2) Netherlands Spain (2, 3)			
Article 40 (criminal justice)	Denmark ⁷⁷ (2) (b) (v) Germany (2) (b) (ii) (v) Monaco (2) (b) (v) Netherlands Republic of Korea (2) (b) (v) Switzerland	Belgium (2) (b) (v) France (2) (b) (v)	Belgium and Denmark, Austria, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia (3, 4) Norway(2) (b) (v) Switzerland (2) (b) (vi) Tunisia (2) (b) (v)
Article 41 (savings provision)		Netherlands			

Procedural provisions

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 44 (submission of reports)			Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia
Article 45 (effective implementation)			Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia

I. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

*Substantive provisions*⁷⁸

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global					
Article 3 (minimum age)	Oman Turkey	Afghanistan, Argentina, Austria, Andorra, Azerbaijan, Bahrain, Bangladesh, Belgium, Belize, Benin, Bolivia,	Cyprus (to Turkey)		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		<p>Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cambodia, Canada, Cape Verde, Chad, Chile, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, El Salvador, Eritrea, Finland,</p> <p>France, Greece, Germany, Guatemala, Holy See, Honduras, Iceland, Ireland, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Liechtenstein,</p>			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Lithuania, Luxembourg, Madagascar, Maldives, Mali, Malta, Monaco, Mongolia, Morocco, Mexico, Mozambique, Namibia, New Zealand, Nicaragua, Norway, Oman, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Rwanda, Senegal, Serbia and Montenegro, Sierra Leone, Slovenia, Spain, Sri Lanka, Syrian Arab Republic, Sweden,			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Switzerland, Tajikistan, Macedonia, Timor-Leste, Tunisia, Turkey, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam			

J. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

*Substantive provisions*⁷⁹

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Oman Qatar	Turkey United States of America Syrian Arab Republic	Ireland, Finland, Netherlands, Austria, France, Germany, Norway, Spain, Sweden (to Qatar); Cyprus (to Turkey) Israel (to Syrian Arab Republic); Sweden (to Turkey)		
Article 2 (definition)		Argentina Denmark (c) Sweden (c) United States of America (a) (c)			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 3 (incorporation into domestic legislation)	Kuwait (5) Syrian Arab Republic (1) (a) (ii) and (5) United States of America (1)	Argentina Republic of Korea (1) (a) (ii) United States of America (1) (a) (i) (ii) (5)			
Article 4 (jurisdiction)	United States of America (1)				
Article 5 (extraditable offences) ⁸⁰	Viet Nam (1) (2) (3) (4)	El Salvador			
Article 7 (seizure and confiscation)		Argentina Colombia			

K. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

*Substantive provisions*⁸¹

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Chile (waiting for translations)				
Article 4 (definition)	Egypt				
Article 8 (freedom of movement)		Sri Lanka (2)			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 15 (arbitrary deprivation of property)	Columbia	Turkey			
Article 18 (equality before courts and tribunals)	Egypt (6), Uganda (3) (d)				
Article 22 (freedom collective expulsion)	Mexico (4)				
Article 29 (right to name, nationality and registration)		Sri Lanka			
Article 32 (transfer earnings, property etc.)		El Salvador			
Article 40 (right to form trade unions)	Turkey				
Article 45 (equality of treatment in relation to education, etc.)		Turkey (2) (3) (4)			
Article 46 (exemption import and export duties)	Columbia	El Salvador Turkey			
Article 47 (transfer of funds)	Columbia	El Salvador			
Article 48 (taxation)		El Salvador			
Article 49 (authorization of residence)		Sri Lanka			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 54 (equality in relation to employment)		Sri Lanka			
Article 61 (project-tied workers)		El Salvador (4)			

Procedural provisions

Article 76 (inter-State complaints)		Turkey			
Article 77 (individual communications)		Turkey			
Article 92 (dispute settlement)	El Salvador, Morocco				

Notes

- ¹ The actions listed are not always described as objections but in some manner contest the referred to action.
- ² The very numerous declarations of particular states of emergency under article 4 of the Covenant are not included here.
- ³ The partial withdrawal not being objected to by any other States over a 12-month period, the reservation was accepted from 1 December 2004.
- ⁴ By subsequent communication, the State party confirmed that this declaration did not aim to modify the legal effect of the provision.
- ⁵ It appears Guyana's reservation may amount to a technical error in its reference to article 6 (being the death penalty provision of the ICCPR). Article 1 of the Optional Protocol would appear more appropriate, as in the case of Trinidad and Tobago.
- ⁶ Barbados refers in error to paragraph (1) in addition to subparagraph (a).
- ⁷ Modified on 29 January 1999, refers to reservations to article 7 (a) and 16. It is not clear if modification, in this case introduction of reservations to articles 7 and 16 means that the original general reservation has been withdrawn or amounts to an addition. It is treated here as an addition.

The Secretary-General proposed to receive this modification to the State party's global reservation in the absence of any objection on the part of any of the contracting States within the 90 days, i.e. 23 June 1999. No objection having been received, the modification was accepted for deposit upon the expiration of the 90-day period. Finland and Germany made objections on 17 August 1999 and 16 August 1999, respectively. It is interesting to note that Germany states (article 19 VCLT) that modifications may not be made post signing, ratifying, accepting approving or acceding to a treaty but only to withdraw or partially withdraw original reservations.
- ⁸ Modified in 1995 to include two reservations, relating to articles 2 and 16.
- ⁹ Although described by the Office of Legal Affairs as declarations these actions appear to be reservations as they limit the application of the Convention to the Constitution.
- ¹⁰ It is not clear to which article/s this relates; it is in respect of women working as underground mines.
- ¹¹ Reservation had only applied to the United Kingdom of Great Britain and Northern Ireland.
- ¹² Continues to apply with respect to overseas territories only.
- ¹³ Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Withdrawn relates to United Kingdom of Great

Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

¹⁴ Although described as a declaration this appears to be a reservation limiting the application of the Convention to the Constitution, and the provisions of Islamic Shariah law.

¹⁵ Continues to apply to Overseas Territories.

¹⁶ Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Withdrawn relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

¹⁷ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

¹⁸ The Secretary-General proposed to receive modifications subsequently made to this provision in the absence of any objection on the part of any of the Contracting States within 90 days, i.e. on 20 July 1998. France and Netherlands made their objections to the partial withdrawal and modifications on 20 July and 21 July 1998. Germany, Finland, Denmark, Netherlands and Norway made its objections in 1996 to original reservations.

¹⁹ Relates to the Cook Islands only.

²⁰ Not objection but a desire that reservation would not be protracted.

²¹ See footnote 9.

²² Article not cited, but as it relates to traditional customs it is assumed it relates to article 5.

²³ Article not cited, but as it relates to combat duties, assumed to relate to article 7.

²⁴ See footnote 9.

²⁵ The Secretary-General proposed to receive this modification to the State party’s global reservation in the absence of any objection on the part of any of the contracting States within the 90 days, i.e. 23 June 1999. No objection having been received, the modification was accepted for deposit upon the expiration of the 90-day period. Finland and Germany made objections on 17 August 1999 and 16 August 1999, respectively. It is interesting to note that Germany states (article 19 VCLT) that modifications may not be made post signing, ratifying,

accepting approving or acceding to a treaty but only to withdraw or partially withdraw original reservations.

²⁶ Although described as a declaration (“shall not affect the constitutional provisions concerning succession of the Spanish crown”) appears to be a reservation similar to that of Luxembourg.

²⁷ See footnote 9.

²⁸ See footnote 9.

²⁹ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

³⁰ This appears to be a reservation, although described as a declaration “does not consider it bound”.

³¹ See footnote 9.

³² Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

³³ Reservation appears to apply to the United Kingdom of Great Britain and Northern Ireland and not to the Overseas Territories.

³⁴ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

³⁵ Applies to the United Kingdom of Great Britain and Northern Ireland.

³⁶ Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

³⁷ Withdrawal only applies to metropolitan territory.

³⁸ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

³⁹ Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

⁴⁰ Although described as a declaration appears to be a reservation, limiting its application to its compatibility with the Moroccan Code.

⁴¹ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

⁴² This appears to be reservation although described as a declaration “does not consider it bound”.

⁴³ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

⁴⁴ Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

⁴⁵ See footnote 9.

⁴⁶ See footnote 12.

⁴⁷ Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

⁴⁸ This appears to be a reservation although described as a declaration “does not consider it bound”.

⁴⁹ See footnote 9.

⁵⁰ According to Denmark no time limit applies to objections against reservations which are inadmissible under international law.

- ⁵¹ Applies to the United Kingdom of Great Britain and Northern Ireland. The Government of the United Kingdom stated “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.
- ⁵² Although the United Nations Office of Legal Affairs described this (“will apply article 14, paragraph 1 in consonance with the existing laws and legislation in the country”) as a declaration, it appears to be a clear reservation similar to the reservation made by New Zealand.
- ⁵³ This is described as an “understanding” of the declaration rather than an objection.
- ⁵⁴ Although described as a declaration by the State party and the United Nations Office of Legal Affairs, most objecting States parties treat it as a reservation.
- ⁵⁵ The United Nations Office of Legal Affairs and the State party regard this as a declaration but it appears to be a reservation (“pursuant to article 28 of the Convention, it does not recognize the competence of the Committee provided for in article 20 of the Convention”).
- ⁵⁶ It is not clear whether the declaration applies to article 21 alone or also article 22. It has been this accorded widest application, that is, with respect to both provisions.
- ⁵⁷ It is not clear whether the declaration applies to article 21 alone or also article 22. It has been this accorded widest application, that is, with respect to both provisions.
- ⁵⁸ The United Nations Office of Legal Affairs (OLA) classifies this as a declaration, although it appears to be a reservation as the wording is similar to reservations of other States.
- ⁵⁹ See footnote 58.
- ⁶⁰ Although described as a declaration, this appears to be a reservation as relates to the implementation which must be in compliance with its religion and traditional values.
- ⁶¹ It is not clear to which article/s this reservation relates.
- ⁶² Although described as a declaration this appears to be a reservation as provides that the implementation of the Convention may not conflict with the Constitution.
- ⁶³ Applies to overseas territories as well as United Kingdom of Great Britain and Northern Ireland.
- ⁶⁴ On 11 May 1993, Denmark notified the Secretary-General that it had decided to withdraw its declaration with regard to the application of the Convention to Greenland and the Faroe Islands, which had declared that the Convention should not apply to these Islands.
- ⁶⁵ General declarations apply to Overseas Territories, as well as United Kingdom of Great Britain and Northern Ireland.
- ⁶⁶ In the view of Denmark and Belgium there is no time limit to making objections to reservations which are inadmissible under international law.

- ⁶⁷ The Netherlands objects to the reservations by Andorra but the statements made are referred to as declarations. Statements made relating to article 7 and 8 appear to be reservations.
- ⁶⁸ This same action (same wording) is described as a reservation when made by Austria.
- ⁶⁹ Although described as a declaration, this appears to be a reservation as it states that the Convention must be applied in compliance with the Algerian legal system.
- ⁷⁰ This same action (same wording) is described as a reservation when made by Austria.
- ⁷¹ Applies to Cayman Islands and Hong Kong.
- ⁷² Although described as a declaration, this appears to be a reservation as it states that this article must be implemented in accordance with its national legislation.
- ⁷³ Applies to Overseas Territories except Pitcairn.
- ⁷⁴ Withdrawal does not apply to Overseas Territories.
- ⁷⁵ Applies to Overseas Territories, as well as to United Kingdom of Great Britain and Northern Ireland.
- ⁷⁶ Unclear why in both of these cases the action taken is referred to as a reservation.
- ⁷⁸ No declarations or reservations were made to any of the procedural provisions.
- ⁷⁹ No declarations or reservations were made to any of the procedural provisions.
- ⁸⁰ No article referred to, but appears to relate to article 5 only.
- ⁸¹ No declarations or reservations were made to the procedural provisions.
