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**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW  
(CAHDI)**

**35<sup>th</sup> meeting  
Strasbourg, 6-7 March 2008**

**EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL TREATIES:  
LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS  
TO INTERNATIONAL TREATIES**

Document prepared by the Secretariat of the CAHDI

**Foreword**

1. At its second meeting (Paris, 14-16 September 1998) the Group of Specialists on Reservations to International Treaties (DI-S-RIT) agreed to propose to the CAHDI to operate as an European observatory of reservations to international treaties (see meeting report, document DI-S-RIT (98) 10).
2. In this context, the CAHDI regularly considers a list of outstanding reservations.
3. The following list consists of reservations and declarations to treaties concluded outside the Council of Europe. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org/>. In accordance with the decision taken at the 34<sup>th</sup> meeting of the CAHDI (paras. 142-143 of the meeting report), unless otherwise indicated, the document will no longer include a separate Part II (reservations and declarations to Council of Europe treaties), since these are almost always expressly permitted. Information on such treaties can be found at the site of the Treaty Office of the Council of Europe <http://conventions.coe.int/>.
4. The format of the information is CONVENTION: **State reserving**, date of notification to the depositary, date of notification by the depositary (where those dates coincide they are indicated only once), deadline for objections. In as far as possible, the text of the reservation and declaration is included.

**Action required**

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as a European observatory of reservations to international treaties. A table of objections to these reservations and declarations is circulated as an Addendum to this document.

## LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS

### A. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES AND OPTIONAL PROTOCOL THERETO, NEW YORK, 13 DECEMBER 2006<sup>1</sup>

#### 1. EL SALVADOR, 30 March 2007, 18 April 2007

##### *Reservation made upon signature*

The Government of the Republic of El Salvador signs the present Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted by the United Nations General Assembly on 13 December 2006, to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles.

#### 2. MAURITIUS, 25 September 2007, 28 September 2007

##### *Reservation made upon signature*

The Government of the Republic of Mauritius makes the following reservations in relation to Article 11 of the United Nations Convention on the Rights of Persons with Disabilities which pertains to situations of risk and humanitarian emergencies.

The Government of Mauritius signs the present Convention subject to the reservation that it does not consider itself bound to take measures specified in article 11 unless permitted by domestic legislation expressly providing for the taking of such measures.

### B. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, NEW YORK, 16 DECEMBER 1966<sup>2</sup>

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<sup>1</sup> *Relevant provisions:*

#### **Article 11 Situations of risk and humanitarian emergencies :**

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

<sup>2</sup> *Relevant provisions:*

#### **Article 8 :**

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that

**3. BAHRAIN**, 27 September 2007, 4 October 2007, 3 October 2008

**Declaration**

The obligation of the Kingdom of Bahrain to implement article 8, paragraph 1 (d), of the Covenant shall not prejudice its right to prohibit strikes at essential utilities.

**C. UNITED NATIONS CONVENTION AGAINST CORRUPTION, NEW YORK, 31 OCTOBER 2003<sup>3</sup>**

**4. BAHAMAS**, 10 January 2008, 31 January 2008, 30 January 2009

**Reservation**

Pursuant to Article 66, paragraph 3 of the United Nations Convention Against Corruption, the Government of the Commonwealth of The Bahamas declares that it does not consider itself bound by the provisions of Article 66, paragraph 2 of the Convention. The Government of the Bahamas asserts that the consent of all parties to such a dispute is necessary, in each individual case, before the dispute is submitted to arbitration or to the International Court of Justice.

**5. UNITED STATES OF AMERICA**, 30 October 2006, 6 December 2006, 5 December 2007  
(*N.B. Deadline for objections, under the Vienna Convention on the Law of Treaties, has passed*)

**Reservations**

(1) The United States of America reserves the right to assume obligations under the Convention in a manner consistent with its fundamental principles of federalism, pursuant to which both federal and state criminal laws must be considered in relation to the conduct addressed in the Convention. U.S. federal criminal law, which regulates conduct based on its effect on interstate or foreign commerce, or another federal interest, serves as an important component of the legal regime within the United States for combating corruption and is

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Convention.

<sup>3</sup> *Relevant provisions:*

**Article 42 :**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

- (a) The offence is committed in the territory of that State Party; or
- (b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

**Article 66:**

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

broadly effective for this purpose. Federal criminal law does not apply where such criminal conduct does not so involve interstate or foreign commerce, or another federal interest. There are conceivable situations involving offenses of a purely local character where U.S. federal and state criminal law may not be entirely adequate to satisfy an obligation under the Convention. Similarly, in the U.S. system, the states are responsible for preventive measures governing their own officials. While the states generally regulate their own affairs in a manner consistent with the obligations set forth in the chapter on preventive measures in the Convention, in some cases they may do so in a different manner. Accordingly, there may be situations where state and federal law will not be entirely adequate to satisfy an obligation in Chapters II and III of the Convention. The United States of America therefore reserves to the obligations set forth in the Convention to the extent they (1) address conduct that would fall within this narrow category of highly localized activity or (2) involve preventive measures not covered by federal law governing state and local officials. This reservation does not affect in any respect the ability of the United States to provide international cooperation to other States Parties in accordance with the provisions of the Convention.

(2) The United States of America reserves the right not to apply in part the obligation set forth in Article 42, paragraph 1 (b) with respect to the offences established in accordance with the Convention. The United States does not provide for plenary jurisdiction over offences that are committed on board ships flying its flag or aircraft registered under its laws. However, in many circumstances, U.S. law provides for jurisdiction over such offences committed on board U.S. – flagged ships or aircraft registered under U.S. law. Accordingly, the United States shall implement paragraph 1 (b) to the extent provided for under its federal law.

#### ***Declaration***

(2) The United States declares that the provisions of the Convention (with the exception of Articles 44 and 46) are non-self-executing. None of the provisions of the Convention creates a private right of action.

#### **D. PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE ADOPTION OF AN ADDITIONAL DISTINCTIVE EMBLEM (PROTOCOL III), 8 DECEMBER 2005**

**6. ISRAEL**, 22 November 2007, 22 November 2007, 21 November 2008

#### ***Declaration***

The Government of Israel declares that while respecting the inviolability of the additional distinctive emblem provided for in the “Protocol additional to the Geneva Conventions of 12 August 1979, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)”, it is understanding of the Government of Israel that the ratification or the implementation of this protocol does not affect any rights acquired pursuant to reservations made by Israel to the Geneva Conventions of 12 August 1949.

#### **E. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, NEW YORK, 13 APRIL 2005<sup>4</sup>**

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<sup>4</sup> *Relevant provisions:*

##### **Article 4 :**

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities

## **7. EGYPT, 20 September 2005, 3 November 2005**

### ***Reservation made upon signature***

The Arab Republic of Egypt declares its commitment to article 4 of the Convention provided that the armed forces of a State do not violate the rules and principles of international law in the exercise of their duties under that article, and also provided that the article is not interpreted as excluding the activities of armed forces during an armed conflict from the scope of application of this Convention on the grounds that the activities of States - under certain legal circumstances - are not considered terrorist activities.

The Arab Republic of Egypt declares that it does not consider itself bound by paragraph 1 of article 23 of the Convention.

## **8. TURKEY, 14 September 2005, 31 October 2005**

### ***Declaration upon signature***

It is the understanding of the Republic of Turkey that the term international humanitarian law in Article 4 (2) of the International Convention for the Suppression of Acts of Nuclear Terrorism, refers to the legal instruments to which Turkey is already party to. The Article should not be interpreted as giving a different status to the armed forces and groups other than the armed forces of a state as currently understood and applied in international law and thereby creating new obligations for the Republic of Turkey.

### ***Reservation upon signature***

Pursuant to Article 23 (2) of the Convention, the Government of the Republic of Turkey declares that it does not considers itself bound by article 23 (1) of the Convention.

## **9. UNITED ARAB EMIRATES, 10 January 2008, 29 January 2008, 28 January 2009**

### ***Reservation***

The United Arab Emirates, having considered the text of the aforementioned Convention and approved the contents thereof, formally declares its accession to the Convention, subject to a reservation with regard to Article 23, paragraph 1 in respect of arbitration. The United Arab Emirates therefore does not consider itself bound by Article 23, paragraph 1 of the Convention.

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undertaken by militaries forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

4. This Convention, does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

#### **Article 23:**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 on the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

**10. SAUDI ARABIA**, 7 December 2007, 7 February 2008, 6 February 2009

***Reservation***

The Kingdom hereby declares that it does not consider itself bound by article 23, paragraph 1 of the Convention.