

MODEL RESPONSES TO NON-SPECIFIC RESERVATIONS

(to be signed by the Ministry for Foreign Affairs,
by the Permanent Representation to the Council of Europe
or a diplomatic representative
who shall be given specific powers to this effect)

*(extract from Recommendation (99)13 adopted by the Committee of Ministers
on 18 May 1999, at the 670th meeting of the Ministers' Deputies)*

OBJECTION

The Ministry for Foreign Affairs of [name of State] / The Permanent Representation of [name of State] to the Council of Europe / The Embassy of [name of State] to [title] presents its compliments to the Secretary General of the Council of Europe and has the honour to notify the following.

Initial statement

The Government of (State X) has examined the reservations made by the Government of (State Y) at the time of the ratification of / accession to the (relevant Convention).

The Government of (State X) notes that the said reservations include reservations of a general nature in respect of the provisions of the Convention which may be contrary to the (Constitution/domestic legislation/traditions) of (State Y).

The Government of (State X) is of the view that these general reservations raise doubts as to the full commitment of (State Y) to the object and purpose of the (relevant Convention) and would like to recall that according to (relevant provision of the relevant Convention/article 19(c) of the Vienna Convention on the Law of the Treaties), a reservation incompatible with the object and purpose of the Convention shall not be permitted.

Additional statements - examples

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

- Furthermore, the Government of (State X) considers that general reservations such as those made by the Government of (State Y), which do not clearly specify the provisions of the (relevant Convention) to which they apply and the extent of the derogation therefrom, undermine the basis of international treaty law.

Concluding statement - alternatives as examples

- a) The Government of (State X) therefore objects to the aforesaid general reservations made by the Government of (State Y) to the (relevant Convention). (State X remains silent as to whether the relevant Convention enters into force or not between State X and State Y).
- b) The Government of (State X) therefore objects to the aforesaid general reservations made by the Government of (State Y) to the (relevant Convention). This objection does not preclude the entry into force of the Convention between (State Y) and (State X).
- c) The Government of (State X) therefore objects to the aforesaid general reservations made by the Government of (State Y) to the (relevant Convention). This objection does not preclude the entry into force, in its entirety, of the Convention between (State Y) and (State X).
- d) The Government of (State X) therefore objects to the aforesaid general reservations made by the Government of (State Y) to the (relevant Convention). This objection does not preclude the entry into force, in its entirety, of the (relevant Convention) between (State Y) and (State X).
The Convention thus becomes operative between (State X) and (State Y) without (State Y) benefiting from these reservations.
- e) The Government of (State X) therefore objects to the aforesaid general reservations made by the Government of (State Y) to the (relevant Convention). This objection precludes the entry into force of the Convention between (State Y) and (State X).
- f) Given the general character of these reservations a final assessment as to their admissibility under international law cannot be made without further clarification. According to international law a reservation is inadmissible to the extent that its application negatively affects the compliance by a State with its obligations under the Convention which are essential for the fulfilment of its object and purpose. Therefore (State X) cannot consider the reservations made by the Government of (State Y) as admissible unless the Government of (State Y), by providing additional information or through subsequent practice, ensures that these reservations are compatible with the provisions essential for the implementation of the object and purpose of the Convention. This objection does not preclude the entry into force of the Convention between (State Y) and (State X).

The Ministry of Foreign Affairs of [name of State] / The Permanent Representation of [name of State] to the Council of Europe / The Embassy of [name of State] to [title] avails itself of this opportunity to reiterate to the Secretary General of the Council of Europe the assurance of its high consideration.

[place, date and seal]