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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

Reactions to reservations and declarations to international treaties previously examined by the CAHDI

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Public International Law Division and Treaty Office
Directorate of Legal Advice and Public International Law, DLAPIL

cahdi@coe.int - fax +33 (0)3 90 21 51 31 - www.coe.int/cahdi

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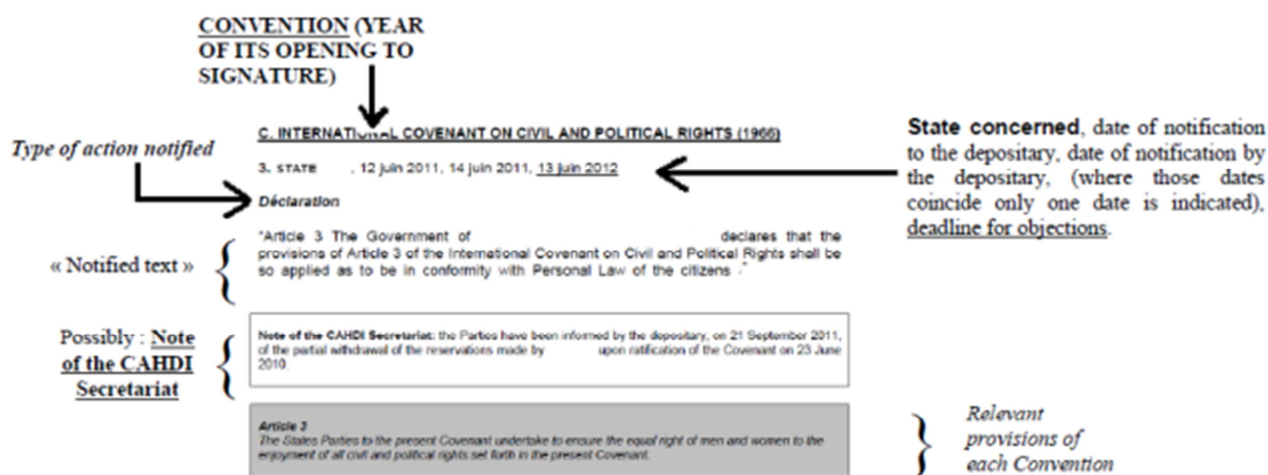
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FOREWORD

Since 1998, the CAHDI operates as European Observatory of Reservations to International Treaties and regularly considers a list of outstanding reservations.

This document presents the reactions of member and observer States of the CAHDI to outstanding reservations and declarations examined by the Committee and for which the deadline for objection has expired. To this end, a table of objections to the reservations and declarations examined at the 47th (Strasbourg, 20-21 March 2014) and 48th (The Hague, 18-19 September 2014) meetings of the CAHDI is set out.

The appendix contains the text of the reservations and declarations to treaties concluded outside the Council of Europe¹. The format of the information contained in these appendices is the following:



¹ No outstanding reservations and declarations to Council of Europe conventions were registered by the Council of Europe Treaty Office for the given period.

TABLE OF OBJECTIONS**LEGEND**

Sign. : Made upon signature

- State has objected
- ◆ State has made a declaration
- ◄ State has objected to the original reservation(s), in case of a (partial) withdrawal
- State considers the reservation to have been formulated belatedly

TREATIES**RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE**

- A. International Convention against Taking Hostages (1979)
- B. International Convention for the Suppression of Terrorist Bombings (1997)
- C. Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998)
- D. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (2001)
- E. Convention on the Rights of Persons with Disabilities (2006)

[illegible]

APPENDIX

RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

A. INTERNATIONAL CONVENTION AGAINST TAKING HOSTAGES (1979)

1. VIET NAM, 9 January 2014, 10 January 2014, 9 January 2015

Reservation

“The Socialist Republic of Viet Nam does not consider itself bound by the provisions of paragraph 1 of Article 16 of this Convention.”

Declaration

“1. The Socialist Republic of Viet Nam declares that the provisions of the International Convention against the Taking of Hostages are non-self-executing in Viet Nam. The Socialist Republic of Viet Nam shall duly implement the provisions of the Convention through multilateral and bilateral mechanisms, specific provisions in its domestic laws and regulations and on the basis of the principle of reciprocity.

2. The Socialist Republic of Viet Nam, pursuant to Article 10 of this Convention, declares that it shall not take this Convention as the direct legal basis for extradition. The Socialist Republic of Viet Nam shall carry out extradition in accordance with the provisions of its domestic laws and regulations, on the basis of treaties on extradition and the principle of reciprocity.”

Article 10

1. *The offences set forth in article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.*

2. *If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.*

3. *States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.*

4. *The offences set forth in article 1 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 5.*

Article 16

1. *Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.*

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

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

B. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS (1997)

2. VIET NAM, 9 January 2014, 10 January 2014, 9 January 2015

Reservation

“The Socialist Republic of Viet Nam does not consider itself bound by the provisions of paragraph 1 of Article 20 of this Convention.”

Declaration

“1. The Socialist Republic of Viet Nam declares that the provisions of the International Convention for the Suppression of Terrorist Bombings are non-self-executing in Viet Nam. The Socialist Republic of Viet Nam shall duly implement the provisions of the Convention through multilateral and bilateral mechanisms, specific provisions in its domestic laws and regulations and on the basis of the principle of reciprocity.

2. The Socialist Republic of Viet Nam, pursuant to Article 9 of this Convention, declares that it shall not take this Convention as the direct legal basis for extradition. The Socialist Republic of Viet Nam shall carry out extradition in accordance with the provisions of its domestic laws and regulations, on the basis of treaties on extradition and the principle of reciprocity.”

Article 9

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.
2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.
4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.
5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

Article 20

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 from the date of the request for arbitration, the parties are unable to agree on the organization of the 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. 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 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

C. CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS (1998)

3. SWITZERLAND, 3 March 2014, 2 March 2015

Reservation

“Reservation to article 4

In the field of nuclear energy and radiation protection, the implementation of article 4 of the Aarhus Convention is subject to article 23 of the Federal Act on the principle of transparency in administration of 17 December 2004, which makes provision for access to official documents produced or received by the authorities after 1 July 2006, the date on which the Federal Act entered into force, when there are requests for access to documents containing information related to nuclear facilities.

Reservation to articles 6 (6) and 9 (2)

In the field of nuclear energy and radiation protection, the implementation of articles 6 (6) and 9 (2) of the Aarhus Convention is subject to the reservation in article 3 (2) of the Federal Act on the protection of the environment of 7 October 1983, which excludes the right of appeal for environmental protection agencies within the meaning of article 55 of the Federal Act in relation to radioactive substances and ionizing radiation.”

Article 4 - Access to environmental information

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

(a) Without an interest having to be stated;

(b) In the form requested unless:

(i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or

(ii) The information is already publicly available in another form.

2. The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

3. A request for environmental information may be refused if:

(a) The public authority to which the request is addressed does not hold the environmental information requested;

(b) The request is manifestly unreasonable or formulated in too general a manner; or

(c) The request concerns material in the course of completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest served by disclosure.

4. A request for environmental information may be refused if the disclosure would adversely affect:

(a) The confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law;

(b) International relations, national defence or public security;

(c) The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(d) The confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions which is relevant for the protection of the environment shall be disclosed;

(e) Intellectual property rights;

(f) The confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law;

(g) The interests of a third party which has supplied the information requested without that party being under or capable of being put under a legal obligation to do so, and where that party does not consent to the release of the material; or

(h) The environment to which the information relates, such as the breeding sites of rare species.

The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.

5. Where a public authority does not hold the environmental information requested, this public authority shall, as promptly as possible, inform the applicant of the public authority to which it believes it is possible to apply for the information requested or transfer the request to that authority and inform the applicant accordingly.

6. Each Party shall ensure that, if information exempted from disclosure under paragraphs 3 (c) and 4 above can be

separated out without prejudice to the confidentiality of the information exempted, public authorities make available the remainder of the environmental information that has been requested.

7. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall state the reasons for the refusal and give information on access to the review procedure provided for in accordance with article 9. The refusal shall be made as soon as possible and at the latest within one month, unless the complexity of the information justifies an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

8. Each Party may allow its public authorities to make a charge for supplying information, but such charge shall not exceed a reasonable amount. Public authorities intending to make such a charge for supplying information shall make available to applicants a schedule of charges which may be levied, indicating the circumstances in which they may be levied or waived and when the supply of information is conditional on the advance payment of such a charge.

Article 6 - Public participation in decisions on specific activities

[...]

6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:

(a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;

(b) A description of the significant effects of the proposed activity on the environment;

(c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;

(d) A non-technical summary of the above;

(e) An outline of the main alternatives studied by the applicant; and

(f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

[...]

Article 9 - Access to justice

[...]

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

(a) Having a sufficient interest or, alternatively,

(b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

[...]

D. PROTOCOL AGAINST THE ILLICIT MANUFACTURING OF AND TRAFFICKING IN FIREARMS, THEIR PARTS AND COMPONENTS AND AMMUNITION, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (2001)

4. LICHTENSTEIN, 10 December 2013, 9 December 2014

Reservations

“Reservation with regard to article 10 (2) b)

In the absence of objection to the transit within 30 days from the date of the written request of non-objection to transit, the requested transit State shall be deemed not to have objected and to have tacitly agreed to the transit.

Reservation with regard to article 10 (3)

According to the Customs Union Treaty concluded between Liechtenstein and Switzerland on 29 March 1923, Liechtenstein became part of the Swiss Customs Territory. According to article 4 of that treaty, Swiss customs legislation – as well as any other Swiss Federal legislation whose application is necessary for the proper functioning of the Customs Union – is applicable in Liechtenstein.

Information on transit States shall not be systematically mentioned in the authorizations for export from and import into Liechtenstein/Swiss customs territory, or in the corresponding accompanying documentation, in accordance with Swiss law applicable in Liechtenstein on the basis of the Customs Union Treaty, which does not always require such mention.”

Article 10 - General requirements for export, import and transit licensing or authorization systems

1. Each State Party shall establish or maintain an effective system of export and import licensing or authorization, as well as of measures on international transit, for the transfer of firearms, their parts and components and ammunition.
2. Before issuing export licences or authorizations for shipments of firearms, their parts and components and ammunition, each State Party shall verify:
 - a) That the importing States have issued import licences or authorizations; and
 - b) That, without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked States, the transit States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit.
3. The export and import licence or authorization and accompanying documentation together shall contain information that, at a minimum, shall include the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components and ammunition and, whenever there is transit, the countries of transit. The information contained in the import licence must be provided in advance to the transit States.
4. The importing State Party shall, upon request, inform the exporting State Party of the receipt of the dispatched shipment of firearms, their parts and components or ammunition.
5. Each State Party shall, within available means, take such measures as may be necessary to ensure that licensing or authorization procedures are secure and that the authenticity of licensing or authorization documents can be verified or validated.
6. States Parties may adopt simplified procedures for the temporary import and export and the transit of firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.

E. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2006)**5. KUWAIT, 22 August 2013, 5 September 2013, 4 September 2014****Reservations**

“Subject to reservations concerning the provisions of article 18, subparagraph 1(a), and article 23, paragraph 2.”

Interpretative declarations

“- Article 12, paragraph 2: The enjoyment of legal capacity shall be subject to the conditions applicable under Kuwaiti law.

- Article 19, paragraph (a): This paragraph shall not be interpreted to permit illicit relations outside legitimate marriage.

- Article 25, paragraph (a): The care in question shall not imply recognition of illicit relations outside legitimate marriage.”

Article 12 - Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may

require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 18 - Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

- a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
 - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
 - c. Are free to leave any country, including their own;
 - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Article 19 - Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 23 - Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- c. Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 25 - Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based

public health programmes;

b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

c. Provide these health services as close as possible to people's own communities, including in rural areas;

d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, *inter alia*, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

6. VENEZUELA, 24 September 2013, 8 October 2013, 7 October 2014

Declaration

"The Bolivarian Republic of Venezuela reaffirms its absolute determination to guarantee the rights and protect the dignity of persons with disabilities. Accordingly, it declares that it interprets paragraph 2 of Article 12 of the Convention to mean that in the case of conflict between that paragraph and any provisions in Venezuelan legislation, the provisions that guarantee the greatest legal protection to persons with disabilities, while ensuring their well-being and integral development, without discrimination, shall apply."

Article 12 is reproduced above.

7. JAPAN, 20 January 2014, 19 January 2015

Declaration

"The Government of Japan declares that paragraph 4 of Article 23 of the Convention on the Rights of Persons with Disabilities be interpreted not to apply to a case where a child is separated from his or her parents as a result of deportation in accordance with its immigration law."

Article 23 is reproduced above.

8. GEORGIA, 13 March 2014, 12 March 2015

Declaration

"Georgia interprets article 12 of the Convention in conjunction with respective provisions of other international human rights instruments and its domestic law and will therefore interpret its provisions in a way conferring the highest legal protection for safeguarding dignity, physical, psychological and emotional integrity of persons and ensuring integrity of their property."

Article 12 is reproduced above.