

NEW ZEALAND

CEDAW

RESERVATIONS AND DECLARATIONS

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

(Ed. note: See also Notes under Territorial Application, below)

Reservations:

...

The Government of the Cook Islands reserves the right not to apply article 2 (f) and article 5 (a) to the extent that the customs governing the inheritance of certain Cook Islands chief titles may be inconsistent with those provisions."

Note

On 5 July 2007, the Government of New Zealand informed the Secretary-General that it had decided to withdraw the reservation made upon ratification in accordance with article 28 (1) of the Convention which read as follows: ... the Government of New Zealand, the Government of the Cook Islands and the Government of Niue reserved the right not to apply the provisions of CEDAW in so far as they are inconsistent with policies relating to recruitment into for service in: (a) the Armed Forces which reflect either directly or indirectly the fact that members of such forces are required to serve on armed forces aircraft or vessels and in situations involving armed combat; or (b) the law enforcement forces which reflect either directly or indirectly the fact that members of such forces are required to serve in situations involving violence or threat of violence, in their territories; ... NOW THEREFORE the Government of New Zealand, having considered the said reservation, HEREBY WITHDRAWS the said reservation in respect of the metropolitan territory of New Zealand pursuant to paragraph 3 of article 28 of CEDAW; ... AND DECLARES that, consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau, ther having been consultations regarding CEDAW between the Government of New Zealand and the Government of Tokelau; the withdrawal of the said reservation shall also apply to Tokelau ..."

(Note 45, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

Note

On 5 September 2003, the Government of New Zealand informed the Secretary-General that it had decided to withdraw its reservation in respect only of the metropolitan territory of New

Zealand. The reservation reads as follows:

"The Government of New Zealand, the Government of the Cook Islands and the Government of Niue reserve the right not to apply the provisions of article 11 (2) (b)."

Moreover, the Government of New Zealand notified the Secretary-General of the following territorial exclusion:

"Declares that, consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, the withdrawal of this reservation shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory."

See also note 1 under "Cook Islands" and note 1 under "Niue" in the "Historical Information" section in the front matter of [*the electronic version on the website of the Multilateral Treaties Deposited with the Secretary-General; <http://treaties.un.org/pages/HistoricalInfo.aspx>].*

[Ed. note: note 1 under Cook Islands is as follows:

Cook Islands

Note 1.

Formerly administered by New Zealand, the Cook Islands and Niue currently have the status of self-governing States in free association with New Zealand.

The responsibility of the Cook Islands and Niue to conduct their own international relations and particularly to conclude treaties has evolved substantially over the years. For a period of time it was considered that, in view of the fact that the Cook Island and Niue, though self-governing, had entered into special relationships with New Zealand, which discharged the responsibilities for the external relations and defence of the Cook Islands and Niue at their request, it followed that the Cook Islands and Niue did not have their own treaty making capacity.

However, in 1984, an application by the Cook Islands for membership in the World Health Organization was approved by the World Health Assembly in accordance with its article 6, and the Cook Islands, in accordance with article 79, became a member upon deposit of an instrument of acceptance with the Secretary-General. In the circumstances, the Secretary-General felt that the question of the status, as a State, of the Cook Islands, had been duly decided in the affirmative by the World Health Assembly, whose membership was fully representative of the international community.

On the basis of the Cook Islands' membership in the World Health Organization, and of

its subsequent admittance to other specialized agencies (Food and Agriculture Organization in 1985, United Nations Educational, Scientific and Cultural Organization in 1985 and the International Civil Aviation Organization in 1986) as a full member without any specifications or limitations, the Secretary-General considered that the Cook Islands could participate in a treaty in its own right as a State. Consequently, the Cook Islands signed the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity in 1992.

The same solution was adopted by the Secretary-General following the approval of Niue's application for membership in the United Nations Educational, Scientific and Cultural Organization UNESCO in 1993 and of the World Health Organization in 1994.

As a result of these developments, the Secretary-General, as depositary of multilateral treaties, recognized the full treaty-making capacity of the Cook Islands in 1992 and of Niue in 1994.]

[Ed. note: note 1 under Niue is as follows:

Niue

Note 1.

Formerly administered by New Zealand, the Cook Islands and Niue currently have the status of self-governing States in free association with New Zealand.

The responsibility of the Cook Islands and Niue to conduct their own international relations and particularly to conclude treaties has evolved substantially over the years. For a period of time it was considered that, in view of the fact that the Cook Island and Niue, though self-governing, had entered into special relationships with New Zealand, which discharged the responsibilities for the external relations and defence of the Cook Islands and Niue at their request, it followed that the Cook Islands and Niue did not have their own treaty making capacity.

However, in 1984, an application by the Cook Islands for membership in the World Health Organization was approved by the World Health Assembly in accordance with its article 6, and the Cook Islands, in accordance with article 79, became a member upon deposit of an instrument of acceptance with the Secretary-General. In the circumstances, the Secretary-General felt that the question of the status, as a State, of the Cook Islands, had been duly decided in the affirmative by the World Health Assembly, whose membership was fully representative of the international community.

On the basis of the Cook Islands' membership in the World Health Organization, and of its subsequent admittance to other specialized agencies (Food and Agriculture Organization in 1985, United Nations Educational, Scientific and Cultural Organization

in 1985 and the International Civil Aviation Organization in 1986) as a full member without any specifications or limitations, the Secretary-General considered that the Cook Islands could participate in a treaty in its own right as a State. Consequently, the Cook Islands signed the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity in 1992.

The same solution was adopted by the Secretary-General following the approval of Niue's application for membership in the United Nations Educational, Scientific and Cultural Organization UNESCO in 1993 and of the World Health Organization in 1994.

As a result of these developments, the Secretary-General, as depositary of multilateral treaties, recognized the full treaty-making capacity of the Cook Islands in 1992 and of Niue in 1994.]

(Note 46, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Mexico, 11 January 1985

The Government of the United Mexican States has studied the content of the reservations made by Mauritius to article 11, paragraph 1 (b) and (d), and article 16, paragraph 1 (g), of the Convention and has concluded that they should be considered invalid in the light of article 28, paragraph 2, of the Convention, because they are incompatible with its object and purpose.

Indeed, these reservations, if implemented, would inevitably result in discrimination against women on the basis of sex, which is contrary to all the articles of the Convention. The principles of equal rights of men and women and non-discrimination on the basis of sex, which are embodied in the second preambular paragraph and Article 1, paragraph 3, of the Charter of the United Nations, to which Mauritius is a signatory, and in articles 2 and 16 of the Universal Declaration of Human Rights of 1948, were previously accepted by the Government of Mauritius when it acceded, on 12 December 1973, to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The above principles were stated in article 2, paragraph 1, and article 3 of the former Covenant and in article 2, paragraph 2, and article 3 of the latter. Consequently, it is inconsistent with these contractual obligations previously assumed by Mauritius for its Government now to claim that it has reservations, on the same subject, about the 1979 Convention.

The objection of the Government of the United Mexican States to the reservations in question should not be interpreted as an impediment to the entry into force of the 1979 Convention between the United Mexican States and Mauritius.

Objections, identical in essence, mutatis mutandis, were also formulated by the Government of

Mexico in regard to reservations made by various States, as follows [for the States which were not Parties to the Covenants (marked below with an asterisk *), the participation in the Covenants was not invoked by Mexico in its objection with regard to reservations]:

...

iii) 22 May 1985: In respect of reservations by New Zealand (applicable to the Cook Islands) concerning article 2 (f) and article 5 (a).

...

Sweden, 17 March 1986

"The Government of Sweden considers that [the following reservations] are incompatible with the object and purpose of the Convention (article 28, paragraph 2) and therefore objects to them:

...

Indeed the reservations in question, if put into practice, would inevitably result in discrimination against women on the basis of sex, which is contrary to everything the Convention stands for. It should also be borne in mind that the principles of the equal rights of men and women and of non-discrimination on the basis of sex are set forth in the Charter of the United Nations as one of its purposes, in the Universal Declaration of Human Rights of 1948 and in various multilateral instruments, to which Thailand, Tunisia and Bangladesh are parties.

"The Government of Sweden furthermore notes that, as a matter of principle, the same objection could be made to the reservations made by:

...

- New Zealand in respect of the Cook Islands regarding article 2, paragraph (f) and article 5, paragraph (a).

In this context the Government of Sweden wishes to take this opportunity to make the observation that the reason why reservations incompatible with the object and purpose of a treaty are not acceptable is precisely that otherwise they would render a basic international obligation of a contractual nature meaningless. Incompatible reservations, made in respect of the Convention on the elimination of all forms of discrimination against women, do not only cast doubts on the commitments of the reserving states to the objects and purpose of this Convention, but moreover, contribute to undermine the basis of international contractual law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by other parties."

TERRITORIAL APPLICATION

Note

On 13 January 1989, the Secretary-General received from the Government of New Zealand, a communication notifying him that, after consultation with the Government of the Cook Islands and the Government of Niue, it denounced the Convention concerning the employment of women on underground work in mines of all kinds (ILO Convention No. 45) on 23 June 1987 and that in accordance with article 28 (3) of the Convention on the Elimination of All Forms of Discrimination against Women, it withdraws the reservation made upon ratification which reads as follows:

"The Government of New Zealand, the Government of the Cook Islands and the Government of Niue reserve the right, to the extent the Convention is inconsistent with the provisions of the Convention concerning the Employment of Women on Underground Work in Mines of all Kinds (ILO Convention No. 45) which was ratified by the Government of New Zealand on 29 March 1938, to apply the provisions of the latter."

See also note 1 under "Cook Islands" and note 1 under "Niue" in the "Historical Information" section in the front matter of *[the electronic version on the website of the Multilateral Treaties Deposited with the Secretary-General; <http://treaties.un.org/pages/HistoricalInfo.aspx>]. [Ed. Note: these notes are reproduced above].*

(Note 44, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

Note

The instrument of ratification indicates that in accordance with the special relationships which exist between New Zealand and the Cook Islands and between New Zealand and Niue, there have been consultations regarding the Convention between the Government of New Zealand and the Government of the Cook Islands and between the Government of New Zealand and the Government of Niue; that the Government of the Cook Islands, which has exclusive competence to implement treaties in the Cook Islands, has requested that the Convention should extend to the Cook Islands; that the Government of Niue which has exclusive competence to implement treaties in Niue, has requested that the Convention should extend to Niue. The said instrument specifies that accordingly the Convention shall apply also to the Cook Islands and Niue.

See also note 1 under "Cook Islands" and note 1 under "Niue" in the "Historical Information" section in the front matter of *[the electronic version on the website of the Multilateral Treaties Deposited with the Secretary-General; <http://treaties.un.org/pages/HistoricalInfo.aspx>]. [Ed. Note: these notes are reproduced above].*

(Note 47, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

Note

See also note 1 under "New Zealand" regarding Tokelau in the "Historical Information" section in the front matter of *[the electronic version on the website of the Multilateral Treaties Deposited with the Secretary-General; <http://treaties.un.org/pages/HistoricalInfo.aspx>].*

[Ed. note: Note 1 under New Zealand is as follows:

New Zealand

Note 1

In a communication dated 10 April 2002, the Government of New Zealand confirmed the following in respect of Tokelau:

"Consistent with international law, New Zealand regards all treaty actions as extending to Tokelau as a non-self-governing territory of New Zealand unless express provision to the contrary is included in the relevant treaty instrument."

(Note 47, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

[Ed. note: See also Notes under "Reservations and Declarations, above.]