

BANGLADESH

CAT

RESERVATIONS AND DECLARATIONS

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

Declaration:

"The Government of the People's Republic of Bangladesh will apply article 14 para. 1 in consonance with the existing laws and legislation in the country."

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Finland, 13 December 1999

With regard to the declaration made by Bangladesh upon accession:

"The Government of Finland has examined the contents of the declaration made by the Government of Bangladesh to Article 14 paragraph 1 to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and notes that the declaration constitutes a reservation as it seems to modify the obligations of Bangladesh under the said article.

A reservation which consists of a general reference to national law without specifying its contents does not clearly define for the other Parties of the Convention the extent to which the reserving State commits itself to the Convention and therefore may raise doubts as to the commitment of the reserving state to fulfil its obligations under the Convention. Such a reservation is also, in the view of the Government of Finland, subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as justification for a failure to perform its treaty obligations.

Therefore the Government of Finland objects to the aforesaid reservation to Article 14 paragraph 1 made by the Government of Bangladesh. This objection does not preclude the entry into force of the Convention between Bangladesh and Finland. The Convention will thus become operative between the two States without Bangladesh benefitting from these reservations".

France, 30 September 1999

With regard to the declaration made by Bangladesh upon accession:

The Government of France notes that the declaration made by Bangladesh in fact constitutes a reservation since it is aimed at precluding or modifying the legal effect of certain provisions of the treaty. A reservation which consists in a general reference to domestic law without specifying its contents does not clearly indicate to the other parties to what extent the State which issued the reservation commits itself when acceding to the Convention. The Government of France considers the reservation of Bangladesh incompatible with the objective and purpose of the treaty, in respect of which the provisions relating to the right of victims of acts of torture to obtain redress and compensation, which ensure the effectiveness and tangible realization of obligations under the Convention, are essential, and consequently lodges an objection to the reservation entered by Bangladesh regarding article 14, paragraph 1. This objection does not prevent the entry into force of the Convention between Bangladesh and France.

Spain, 13 December 1999

With regard to the declaration to article 14 (1) made by Bangladesh upon accession:

The Government of the Kingdom of Spain considers that this declaration is actually a reservation, since its purpose is to exclude or modify the application of the legal effect of certain provisions of the Convention. Moreover, in referring in a general way to the domestic laws of Bangladesh, without specifying their content, the reservation raises doubts among the other States parties as to the extent to which the People's Republic of Bangladesh is committed to ratifying the Convention.

The Government of the Kingdom of Spain believes that the reservation lodged by the Government of the People's Republic of Bangladesh is incompatible with the objective and purpose of the Convention, for which the provisions concerning redress and compensation for victims of torture are essential factors in the concrete fulfilment of the commitments made under the Convention.

The Government of the Kingdom of Spain therefore states an objection to the above-mentioned reservation lodged by the Government of the People's Republic of Bangladesh to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concerning article 14, paragraph 1, of that Convention.

This objection does not affect the entry into force of the above-mentioned Convention between the Kingdom of Spain and the People's Republic of Bangladesh.

Sweden, 14 December 1999

With regard to the declaration to article 14 (1) made by Bangladesh upon accession:

"In this context the Government of Sweden would like to recall, that under well-established international treaty law, the name assigned to a statement whereby the legal effect of certain provisions of a treaty is excluded or modified, does not determine its status as a reservation to the treaty. Thus, the Government of Sweden considers that the declaration made by the Government of Bangladesh, in the absence of further clarification, in substance constitutes a reservation to the Convention.

The Government of Sweden notes that the said declaration imply that the said article of the Convention is being made subject to a general reservation referring to the contents of existing laws and regulations in the country.

The Government of Sweden is of the view that this declaration raises doubts as to the commitment of Bangladesh to the object and purpose of the Convention and would recall that, according to well-established international law, a reservation incompatible with the object and purpose of a treaty shall not be permitted.

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.

The Government of Sweden therefore objects to the aforesaid declaration made by the Government of Bangladesh to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection does not preclude the entry into force in its entirety of the Convention between Bangladesh and Sweden. The Convention will thus become operative between the two States without Bangladesh benefitting from the declaration".

Note

In this regard, the Secretary-General received communications from the following Governments on the dates indicated hereinafter:

Germany (17 December 1999):

" The Government of the Federal Republic of Germany notes that the said declaration constitutes a reservation of a general nature. A reservation according to which article 14 paragraph 1 of the Convention will only be applied by the Government of the People's Republic of Bangladesh "in consonance with the existing laws and legislation in the country" raises doubts as to the full commitment of Bangladesh to the object and purpose of the Convention. 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.

The Government of the Federal Republic of Germany therefore objects to the reservation made by the Government of the People's Republic of Bangladesh to the Convention. This objection does not preclude the entry into force of the Convention between the Federal Republic of Germany and the People's Republic of Bangladesh".

Netherlands (20 December 1999):

"The Government of the Kingdom of the Netherlands considers that such a reservation, which seeks to limit the responsibilities of the reserving State under the Convention by invoking national law, may raise doubts as to the commitment of this State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law.

It is in the common interest of States that treaties to which they have chosen to become parties should be respected, as to object and purpose, by all parties.

The Government of the Kingdom of the Netherlands therefore objects to the aforesaid reservation made by the Government of Bangladesh.

This objection shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and Bangladesh".

(Note 14, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)