

PAKISTAN

CAT

RESERVATIONS AND DECLARATIONS

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

Reservation made upon ratification:

...

“Article 8

‘The Government of the Islamic Republic of Pakistan declares the pursuant to Article 8, paragraph 2, of the Convention, it does not take this Convention as the legal basis for cooperation on extradition with other States Parties’.

...

Article 28

‘In accordance with Article 28, paragraph 1, of the Convention, the Government of the Islamic Republic of Pakistan hereby declares that it does not recognize the competence of the Committee provided for in Article 20’.

Article 30

‘The Government of the Islamic Republic of Pakistan does not consider itself bound by Article 30, Paragraph 1 of the Convention’.”

Upon signature:

Reservation:

“The Government of the Islamic Republic of Pakistan reserves its right to attach appropriate reservations, make declarations and state its understanding in respect of various provisions of the Convention at the time of ratification.”

* * * * *

Note

The Secretary-General received the following communication(s) related to the reservations made by Pakistan, on the date(s) indicated hereinafter:

The Netherlands (30 June 2011)

The Government of the Kingdom of the Netherlands has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

The Government of the Kingdom of the Netherlands considers that with its reservations of the Articles 3, 4, 6, 12, 13 and 16 of the Convention, the Islamic Republic of Pakistan has made the application of essential obligations under the Convention subject to the Sharia laws and/or the constitutional and/or national laws in force in Pakistan.

This makes it unclear to what extent the Islamic Republic of Pakistan considers itself bound by the obligations of the treaty and raises concerns as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention.

The Government of the Kingdom of the Netherlands considers that reservations of this kind must be regarded as incompatible with the object and purpose of the Convention and would recall that, according to customary international law, as codified in the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a treaty shall not be permitted.

The Government of the Kingdom of the Netherlands therefore objects to the reservations of the Islamic Republic of Pakistan to the aforesaid Articles of the Convention.

This objection does not constitute an obstacle to the entry into force of the convention between the Kingdom of the Netherlands and the Islamic Republic of Pakistan.

Subsequently, in a communication received on 20 September 2011, the Government of Pakistan notified the Secretary-General that it had decided to withdraw the reservations to articles 3, 4, 6, 12, 13 and 16. These reservations read as follows:

Article 3

“The Government of the Islamic Republic of Pakistan declares the provisions of Article 3 shall be so applied as to be in conformity with the provisions of its laws relating to extradition and foreigners’.”

Articles 4, 6, 12, 13 and 16

"The Government of the Islamic Republic of Pakistan declares that the provisions of these Articles shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws’.”

(Note 21, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)

OBJECTIONS MADE TO STATE PARTY’S RESERVATIONS AND DECLARATIONS

Australia, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Australia has examined the reservation made by The Islamic Republic of Pakistan to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and now hereby objects to the same for and on behalf of Australia:

The Government of Australia considers that the reservations by the Islamic Republic of Pakistan are incompatible with the object and purpose of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention).

The Government of Australia recalls that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of a treaty is not permitted.

It is in the common interest of States that treaties to which they have chosen to become party 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 the treaties.

Furthermore, the Government of Australia considers that The Islamic Republic of Pakistan, through its reservations, is purporting to make the application of the Convention subject to the provisions of general domestic law in force in The Islamic Republic of Pakistan. As a result, it is unclear to what extent The Islamic Republic of Pakistan considers itself bound by the obligations of the Convention and therefore raises concerns as to the commitment of The Islamic Republic of Pakistan to the object and purpose of the Convention.

The Government of Australia considers that the reservations to the Convention are subject to the general principle of treaty interpretation, pursuant to Article 27 of the Vienna Convention of the Law of Treaties, according to which a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

For the above reasons, the Government of Australia objects to the aforesaid reservations made by The Islamic Republic of Pakistan to the Convention and expresses the hope that the Islamic Republic of Pakistan will withdraw its reservations.

This objection shall not preclude the entry into force of the Convention between Australia and The Islamic Republic of Pakistan.”

Austria, 24 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Austria has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of Austria considers that in aiming to exclude the application of those provisions of the Convention which are deemed incompatible with the Constitution of Pakistan, Sharia laws and certain national laws, the Islamic Republic of Pakistan has made reservations of general and indeterminate scope. These reservations do not clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention.

The Government of Austria therefore considers the reservations of the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 incompatible with the object and purpose of the Covenant and objects to them.

These objections shall not preclude the entry into force of the Convention between Austria and the Islamic Republic of Pakistan.”

Belgium, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

Belgium has carefully examined the reservations made by Pakistan upon accession on 23 June 2010 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The vagueness and general nature of the reservations made by Pakistan with respect to Articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment may contribute to undermining the bases of international human rights treaties.

The reservations make the implementation of the Convention’s provisions contingent upon their compatibility with the Islamic Sharia and legislation in force in Pakistan. This creates uncertainty as to which of its obligations under the Convention Pakistan intends to observe and raises doubts as to Pakistan’s respect for the object and purpose of the Convention.

It is in the common interest for all parties to respect the treaties to which they have acceded and for States to be willing to enact such legislative amendments as may be necessary in order to fulfil their treaty obligations.

Belgium also notes that the reservations concern fundamental provisions of the Convention.

Consequently, Belgium considers the reservations to be incompatible with the object and purpose of that instrument.

Belgium notes that under customary international law, as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of a treaty is not permitted (article 19 (c)).

Furthermore, under Article 27 of the Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Consequently, Belgium objects to the reservations formulated by Pakistan with respect to Articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between the Kingdom of Belgium and Pakistan.

Canada, 27 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Canada has carefully examined the reservations made by the Government of the Islamic Republic of Pakistan upon ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in accordance with which the Government of the Islamic Republic of Pakistan declares that:

The provisions of Articles 4, 6, 12, 13 and 16 ‘shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws’.

The Government of Canada considers that a reservation which consists of a general reference to national law or to the prescriptions of the Islamic Sharia constitutes, in reality, a reservation with a general, indeterminate scope. Such a reservation makes it impossible to identify the modifications to obligations under the Convention that it purports to introduce and impossible for the other States Parties to the Convention to know the extent to which Pakistan has accepted the obligations of the Convention, an uncertainty which is unacceptable, especially in the context of treaties related to human rights.

The Government of Canada notes that the above-mentioned reservations made by the Government of the Islamic Republic of Pakistan, addressing many of the most essential provisions of the Convention, and aiming to exclude the obligations under those provisions, are incompatible with the object and purpose of the Convention, and thus inadmissible under article 19(c) of the Vienna Convention on the Law of Treaties. The Government of Canada therefore objects to the aforesaid

reservations made by the Government of the Islamic Republic of Pakistan.

This objection does not preclude the entry into force in its entirety of the Convention between Canada and the Islamic Republic of Pakistan.”

Czech Republic, 20 June 2011

“The Czech Republic believes that the reservations of Pakistan made to Articles 3, 4, 6, 8, 12, 13, and 16 of the Convention, if put into practice, would result in restriction and weakening of the universal prohibition of torture. Such restriction or weakening is contrary to the object and purpose of the Convention. Furthermore, Pakistan supports reservations to Articles 4, 6, 12, 13 and 16 by references to its domestic law, which is, in the opinion of the Czech Republic, unacceptable under customary international law, as codified in Article 27 of the Vienna Convention on the Law of Treaties. Finally, the reservations to Articles 4, 6, 12, 13 and 16 that refer to the notions such as “Constitution of Pakistan” and “Sharia laws” and to Article 3 that refer to the notions such as “the provisions of its laws relating to extradition and foreigners”, without specifying its contents, do not clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations under 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 the treaties. According to Article 28 paragraph 2 of the Convention and according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation that is incompatible with the object and purpose of a treaty shall not be permitted.

The Czech Republic, therefore, objects to the aforesaid reservations made by Pakistan to the Convention. This objection shall not preclude the entry into force of the Convention between the Czech Republic and Pakistan. The Convention enters into force in its entirety between the Czech Republic and Pakistan, without Pakistan benefiting from its reservation.”

Denmark, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Kingdom of Denmark has examined the reservations made by the Government of the Islamic Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of Denmark considers, that the reservations made by the Islamic Republic of Pakistan to articles 3, 4, 6, 12, 13, and 16 of the Convention, which make the application of these

essential obligations under the Convention subject to Sharia and/or constitutional and/or national law in force in the Islamic Republic of Pakistan, raise doubts as to what extent the Islamic Republic of Pakistan considers itself bound by the obligations of the treaty and concern as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention.

The Government of Denmark wishes to recall that, according to customary international law, as codified in the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of the Convention shall not be permitted.

Consequently, the Government of Denmark considers the said reservations as incompatible with the object and purpose of the Convention and accordingly inadmissible and without effect under international law.

The Government of Denmark therefore objects to the aforementioned reservations made by the Government of the Islamic Republic of Pakistan. This shall not preclude the entry into force of the Convention in its entirety between the Islamic Republic of Pakistan and Denmark.

The Government of Denmark recommends the Government of the Islamic Republic of Pakistan to reconsider its reservations to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.”

Finland, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Finland welcomes the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment by the Islamic Republic of Pakistan. The Government of Finland has carefully examined the content of the reservations relating to Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30 of the Convention made by the Islamic Republic of Pakistan upon ratification.

The Government of Finland notes that the Islamic Republic of Pakistan reserves the right to apply the provisions of Article 3 so as to be in conformity with the provisions of its laws relating to extradition and foreigners, and the provisions of Articles 4, 6, 12, 13 and 16 to the extent that they are not repugnant to the provisions of the Constitution of Pakistan and the Sharia laws.

The Government of Finland notes that a reservation which consists of a general reference to national law without specifying its content does not clearly define to other Parties to the Convention the extent to which the reserving States commits itself to the Convention and creates serious doubts as to the commitment of the reserving State to fulfil its obligations under the Convention. Such reservations are, furthermore, 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.

The reservations to Articles 3, 4, 6, 12, 13 and 16 seek to restrict essential obligations of the Islamic Republic of Pakistan under the Convention and raise serious doubts as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention. The Government of Finland wishes to recall that, according to Article 19 (c) of the Vienna Convention on the Law of Treaties and customary international law, a reservation contrary to 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 and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Finland therefore objects to the reservations made by the Islamic Republic of Pakistan in respect of Articles 3, 4, 6, 12, 13 and 16 of the Convention. This objection shall not preclude the entry into force of the Convention between the Islamic Republic of Pakistan and Finland. The Convention will thus become operative between the two states without the Islamic Republic of Pakistan benefiting from its reservations.”

France, 24 June 2011

With regard to the reservations made by Pakistan upon ratification:

The Government of the French Republic has considered the reservations made by the Islamic Republic of Pakistan upon its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 23 June 2010.

Concerning the reservations to articles 3, 4, 6, 12, 13 and 16, France considers that in seeking to exclude the application of provisions of the Convention, insofar as they might be contrary to or inconsistent with laws relating to extradition and foreigners, the Constitution of Pakistan and Sharia law, the Islamic Republic of Pakistan has made reservations of a general and indeterminate nature. Indeed, these reservations are vague since they do not specify which provisions of domestic law are affected. Thus, they do not allow other States Parties to appreciate the extent of the commitment of the Islamic Republic of Pakistan, including the compatibility of the provisions with the object and purpose of the Convention.

The Government of the French Republic therefore objects to the reservations made by the Islamic Republic of Pakistan. However, this objection shall not preclude the entry into force of the Convention between France and Pakistan.

Germany, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Federal Republic of Germany has carefully examined the reservations made by the Islamic Republic of Pakistan on 23 June 2010 to Articles 3, 4, 6, 12, 13 and 16 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of the Federal Republic of Germany is of the opinion that these reservations subject the application of Articles 3, 4, 6, 12, 13 and 16, all of which are core provisions of the Convention, to a system of domestic norms without specifying the contents thereof, leaving it uncertain to which extent the Islamic Republic of Pakistan accepts to be bound by the obligations under the Convention and raising serious doubts as to its commitment to fulfil its obligations under the Convention. The reservations therefore are considered incompatible with the object and purpose of the Convention and consequently impermissible under Art. 19 c of the Vienna Convention on the Law of Treaties.

The Government of the Federal Republic of Germany therefore objects to the above-mentioned reservations as being incompatible with the object and purpose of the Convention. This objection shall not preclude the entry into force of the Convention between the Federal Republic of Germany and the Islamic Republic of Pakistan.”

Greece, 22 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Hellenic Republic considers that the reservation with respect to Article 3, a core provision of the Convention, which subjects its application to the laws of the Islamic Republic of Pakistan relating to extradition and foreigners without specifying their content, is incompatible with the object and purpose of the above Convention.

Moreover, the Government of the Hellenic Republic considers that the reservations with respect to Articles 4, 12, 13 and 16, which contain a general reference to the Provisions of the Constitution of Pakistan and Sharia laws do not specify the extent of the derogation there from and, therefore, are incompatible with the object and purpose of the Convention.

For those reasons the Government of the Hellenic Republic objects to the abovementioned reservations formulated by the Islamic Republic of Pakistan.”

Hungary, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“With regard to the reservations made by the Islamic Republic of Pakistan:

The Government of the Republic of Hungary has examined the reservations made by the Islamic Republic of Pakistan upon accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by General Assembly of the United Nations on 10 December 1984, with regard to Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30 of the Convention.

The Government of the Republic of Hungary is of the view that the implementation of the reservations aiming at the elimination of the duty to fulfill by the reserving State vital obligations enshrined in the Convention made by the Islamic Republic of Pakistan with regard to Articles 3, 4, 6, 12, 13 and 16 of the Convention would make it impossible to attain the objective of the Convention, which is to protect entities from torture and other cruel, inhuman or degrading treatment or punishment and to make the struggle against such violations of human rights more effective. In consequence, according to Article 19 (c) of the Vienna Convention on the Law of Treaties, which is a treaty and customary norm, these reservations shall not be permitted as they are incompatible with the object and purpose of the Convention.

In order to justify its will to exclude the legal consequences of certain provisions of the Convention, the Islamic Republic of Pakistan raised in the reservations with regard to Articles 3, 4, 6, 12, 13 and 16 the inconsistency of these provisions with its domestic legislation. The Government of the Republic of Hungary recalls that, according to Article 27 of the Vienna Convention on the Law of Treaties, which is a treaty and customary norm, the State Party to an international agreement may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

The Islamic Republic of Pakistan refers in the above-mentioned reservations to the Sharia laws and to its domestic legislation as possibly affecting the application of the Convention. Nonetheless, it fails to specify the exact content of these laws and legislation. As a result, it is impossible to clearly define the extent to which the reserving State has accepted the obligations of the Convention.

Therefore, the Government of the Republic of Hungary objects to the reservations made by the Islamic Republic of Pakistan upon accession to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984, with regard to Articles 3, 4, 6, 12, 13 and 16.

This objection does not preclude the entry into force of the [Convention] between the Republic of Hungary and the Islamic Republic of Pakistan.”

Ireland, 23 June 2011

Objection to the reservations made by Pakistan upon ratification:

“The Government of Ireland has examined the reservations made on 23 June 2010 by the Islamic

Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of Ireland notes that the Islamic Republic of Pakistan subjects Articles 3, 4, 6, 12, 13 and 16 to the Constitution of Pakistan, its domestic law and/or Sharia law. The Government of Ireland is of the view that a reservation which consists of a general reference to the Constitution or the domestic law of the reserving State or to religious law, may cast doubt on the commitment of the reserving state to fulfil its obligations under the Convention. The Government of Ireland is of the view that such general reservations are incompatible with the object and purpose of the Convention and may undermine the basis of international treaty law.

The Government of Ireland therefore objects to the reservations made by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Covenant between Ireland and the Islamic Republic of Pakistan.”

Italy, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Italy has examined the reservations made on 23 June 2010 by the Islamic Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, regarding Articles 3, 4, 6, 12, 13 and 16 of the Convention.

The Government of Italy notes that the said articles of the Convention are being made subject to a general reservation referring to the contents of existing legislation in the Islamic Republic of Pakistan.

The Government of Italy is of the view that, in the absence of further clarification, these reservations raise doubts as to the commitment of the Islamic Republic of Pakistan as to the object and purpose of the Convention and would like to recall that, according to customary international law as codified by the Vienna Convention on the Law of Treaties, 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 the treaties.

The Government of Italy, therefore, objects to the aforesaid reservations made by the Islamic Republic of Pakistan to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between Italy and the Islamic Republic of Pakistan.”

Latvia, 29 June 2011

With regards to the reservations made by Pakistan upon ratification:

“The Government of the Republic of Latvia has carefully examined the reservations expressed by the Islamic Republic of Pakistan to Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30 of the Convention upon ratification.

The Government of the Republic of Latvia considers that the reservations expressed by the Islamic Republic of Pakistan seek to limit the effect of the application of the Convention.

Moreover, the Government of the Republic of Latvia notes that the reservations expressed by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention, viewed as constituting the object and purpose thereof, subject these provisions to the regime of its national law.

The Government of the Republic of Latvia recalls that Article 27 of the Vienna Convention on the Law of Treaties sets out that a State Party may not invoke provisions of its internal law as justification for its failure to perform obligations arising from an international treaty.

The Government of the Republic of Latvia also recalls that customary international law as codified by the Vienna Convention on the Law of Treaties, and in particular Article 19 (c) thereof, sets out that a reservation incompatible with the object and purpose of a treaty is not permissible.

Hence, reservations expressed by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention raise doubts as to whether the Government of the Islamic Republic of Pakistan will apply the Convention in line with its object and purpose.

Consequently, the Government of the Republic of Latvia objects to the reservations made by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention.

At the same time, this objection shall not preclude the entry into force of the Convention between the Republic of Latvia and the Islamic Republic of Pakistan. Thus, the Convention will become operative without the Islamic Republic of Pakistan benefiting from its reservation.”

Norway, 29 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Norway has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government of Norway considers that the reservations with regard to articles 3, 4, 6, 12, 13 and 16 of the Convention are so extensive as to be contrary to its object and purpose. The Government of Norway therefore objects to the said reservations made by the Islamic Republic of Pakistan. This objection does not preclude the entry into force in its entirety of the Convention between the Kingdom of Norway and the Islamic Republic of Pakistan. The Convention thus becomes operative between the Kingdom of Norway and the Islamic Republic of Pakistan without the Islamic Republic of Pakistan benefiting from the aforesaid reservations.”

Poland, 3 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Republic of Poland has examined the reservations made by the Islamic Republic of Pakistan upon accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by General Assembly of the United Nations on 10 December 1984, with regard to Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30 of the Convention.

The Government of the Republic of Poland is of the view that the implementation of the reservations aiming at the elimination of the duty to fulfill by the reserving State vital obligations enshrined in the Convention made by the Islamic Republic of Pakistan with regard to Articles 3, 4, 6, 12, 13 and 16 of the Convention would make it impossible to attain the objective of the Convention, which is to protect entities from torture and other cruel, inhuman or degrading treatment or punishment and to make the struggle against such violations of human rights more effective. In consequence, according to Article 19 (c) of the Vienna Convention on the Law of Treaties, which is a treaty and customary norm, these reservations shall not be permitted as incompatible with the object and purpose of the Convention.

In order to justify its will to exclude the legal consequences of certain provisions of the Convention, the Islamic Republic of Pakistan raised in the reservations with regard to Articles 3, 4, 6, 12, 13 and 16 the inconsistency of these provisions with its domestic legislation. The Government of the Republic of Poland recalls that, according to Article 27 of the Vienna Convention on the Law of Treaties, which is a treaty and customary norm, the State Party to an international agreement may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

The Islamic Republic of Pakistan refers in the above-mentioned reservations to the Sharia laws and to its domestic legislation as possibly affecting the application of the Convention. Nonetheless it does specify the exact content of these laws and legislation. As a result, it is impossible to clearly define the extent to which the reserving State has accepted the obligations of the Convention.

Therefore, the Government of the Republic of Poland objects to the reservations made by the Islamic Republic of Pakistan upon accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984, with regard to Articles 3, 4, 6, 12, 13 and 16.

This objection does not preclude the entry into force of the Covenant between the Republic of Poland and the Islamic Republic of Pakistan.”

Portugal, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Portuguese Republic has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, New York, 10 December 1984.

The Government of the Portuguese Republic considers that the reservations made by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 are reservations that seek to subject the application of the Convention to its Constitution, its domestic law or/and Sharia Law, limiting the scope of the Convention on an unilateral basis and contributing to undermining the basis of International Law.

The Government of the Portuguese Republic considers that reservations by which a State limits its responsibilities under the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, by invoking its Constitution, the domestic law or/and the Sharia Law raise serious doubts as to the commitment of the reserving State to the object and purpose of the Convention, as the reservations are likely to deprive the provisions of the Convention of their effect and are contrary to the object and purpose thereof.

It is in the common interest of all the 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 the Treaties.

The Government of the Portuguese Republic recalls that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Government of the Portuguese Republic therefore objects to the aforesaid reservations made by the Government of the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, New York, 10 December 1984.

However, these objections shall not preclude the entry into force of the Convention between the Portuguese Republic and the Islamic Republic of Pakistan.”

Slovakia, 23 June 2011

Objection to the reservations made by Pakistan upon ratification:

“The Slovak Republic has examined the reservations made by the Islamic Republic of Pakistan upon its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of 10 December 1984, according to which:

‘The Government of the Islamic Republic of Pakistan declares that the provisions of Article 3 shall be so applied as to be in conformity with the provisions of its laws relating to extradition and foreigners.

The Government of the Islamic Republic of Pakistan declares that pursuant to Article 8, paragraph 2, of the Convention, it does not take this Convention as the legal basis for cooperation on extradition with other States Parties.

The Government of the Islamic Republic of Pakistan declares that the provisions of these Articles [Article 4, 6, 12, 13, and 16] shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws.

In accordance with Article 28, paragraph 1, of the Convention, the Government of the Islamic Republic of Pakistan hereby declares that it does not recognize the competence of the Committee provided for in Article 20.

The Government of the Islamic Republic of Pakistan does not consider itself bound by Article 30, paragraph 1 of the Convention.’

The Slovak Republic considers that with the reservations to Articles 4, 6, 12, 13 and 16 the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is made subject to the Islamic Sharia law. Moreover it considers the reservations with respect to Article 3 of the Convention as incompatible with the object and purpose of the Convention.

This makes it unclear to what extent the Islamic Republic of Pakistan considers itself bound by the obligations of the Convention as to its commitment to the object and purpose of the Convention.

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

The Slovak Republic recalls that the customary international law, as codified by the Vienna Convention on the Law of Treaties, and in particular Article 19 (c), sets out that the reservation that is incompatible with the object and purpose of a treaty is not permitted. The Slovak Republic therefore objects to the reservations made by the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 of the Convention.

This objection shall not preclude the entry into force of the Convention between the Slovak Republic and the Islamic Republic of Pakistan, without the Islamic Republic of Pakistan benefiting from its reservations.”

Spain, 28 June 2011

Objection to the reservations made by Pakistan upon ratification:

The Government of the Kingdom of Spain has examined the reservations made by Pakistan upon its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with regard to articles 3, 4, 6, 12, 13 and 16 of that international instrument.

The Government of the Kingdom of Spain considers that those articles refer to rights and guarantees that are essential for achieving the object and purpose of the Convention. As the reservations formulated by Pakistan make application of those articles of the Convention subject to their consistency with domestic law on extradition, with the Constitution and with Sharia laws, to which it refers in general terms without specifying their content, they make it impossible to determine the extent of Pakistan's commitment to achieving the object and purpose of the Convention. Furthermore, they violate the principle of international law, well established in practice, that a State cannot make compliance with international obligations that are assumed voluntarily subordinate to the application of the provisions of domestic law, whatever their nature. In no case may such reservations, as formulated, exclude the legal effects of obligations arising from the relevant provisions of the Convention.

Consequently, the Government of the Kingdom of Spain objects to the reservations made to articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between the Kingdom of Spain and Pakistan.

Sweden, 22 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Sweden is of the view that these reservations raise serious doubt as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention, as the reservations are likely to deprive the provisions of the Convention of their effect and are contrary to the object and purpose thereof.

The Government of Sweden would like to recall that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, 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 the treaties.

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

This objection shall not preclude the entry into force of the Convention between Pakistan and Sweden. The Convention enters into force in its entirety between the two States, without Pakistan benefiting from these reservations.”

Switzerland, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

Concerning the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984:

“The Swiss Federal Council has examined the reservations made by the Islamic Republic of Pakistan upon its accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, with regard to articles 3, 4, 6, 12, 13 and 16.

The reservations to the articles, which refer to the provisions of domestic law and Islamic Sharia law, do not specify their scope and raise doubts about the ability of the Islamic Republic of Pakistan to honour its obligations as a party to the Convention.

Article 19 of the Vienna Convention on the Law of Treaties of 23 May 1969 prohibits any reservation that is incompatible with the object and purpose of a treaty.

Consequently, the Swiss Federal Council objects to the aforesaid reservations made by the Islamic Republic of Pakistan to the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment of 10 December 1984.

This objection does not preclude the entry into force of the Convention between Switzerland and the Islamic Republic of Pakistan.”

United Kingdom of Great Britain and Northern Ireland, 28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the United Kingdom of Great Britain and Northern Ireland has examined the reservations made by the Government of Pakistan to the Convention [against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment] on 23 June 2010, which read:

1. Article 3 - The Government of the Islamic Republic of Pakistan declares that provisions of Article 3 shall be so applied as to be in conformity with the provisions of its laws relating to extradition and foreigners.

2. Article 8 - The Government of the Islamic Republic of Pakistan declares that pursuant to Article 8, paragraph 2, of the Convention, it does not take this Convention as the legal basis for cooperation on extradition with other States Parties.

3. Article 4, 6, 12, 13 and 16 - The Government of the Islamic Republic of Pakistan declares that the provisions of these Articles shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws.

4. Article 28 - In accordance with Article 28, paragraph 1, of the Convention, the Government of the Islamic Republic of Pakistan hereby declares that it does not recognize the competence of the Committee provided for in Article 20.

5. Article 30 - The Government of the Islamic Republic of Pakistan does not consider itself bound by Article 30, paragraph 1 of the Convention.

In the view of the United Kingdom a reservation should clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention. Reservations which consist of a general reference to a constitutional provision, law or system of laws without specifying their contents do not do so.

The Government of the United Kingdom therefore objects to the reservations made by the Government of Pakistan to Articles 3, 4, 6, 12, 13 and 16.

The United Kingdom will re-consider its position in light of any modifications or withdrawals of the reservations made by the Government of Pakistan to the Convention.”

United States of America, 29 June 2011

Objection to the reservations made by Pakistan upon ratification:

“The Government of the United States of America objects to Pakistan’s reservations to the CAT. Pakistan has reserved to Articles 3, 4, 6, 12, 13, and 16 of the Convention, which address non-refoulement, criminalization of acts which constitute torture, arrest or apprehension of those suspected of committing torture, investigation of credible allegations of torture, the right to bring before and have examined by competent authorities allegations of torture and for protection of complainants and witnesses, and the prevention of cruel, inhuman or degrading treatment or punishment. At the same time, Pakistan has chosen not to participate in the Committee’s inquiry process under Article 20. The combination of Pakistan’s reservations and its decision not to participate in the Article 20 process raises serious concerns because the reservations obscure the extent to which Pakistan intends to modify its substantive obligations under the Convention, and preclude further inquiry by the Committee if well-founded indications of systematic torture do arise. As a result, the United States considers the totality of Pakistan’s reservations to Articles 3, 4, 6, 12, 13, and 16 to be incompatible with the object and purpose of the [Convention]. This objection does not constitute an obstacle to the entry into force of the [Convention] between the United States and Pakistan, and the aforementioned articles shall apply between our two states, except to the extent of Pakistan’s reservations.”

(See also Note under “Reservations and Declarations”, above)