

## PORTUGAL

CESCR

### RESERVATIONS AND DECLARATIONS

*(Ed. note: See Note under Territorial Application, below)*

### OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS

*(Ed. note: for the text targeted by the following objection, see the Reservations and Declarations of the State which is the subject of the objection)*

26 October 1990

"The Government of Portugal hereby presents its formal objection to the interpretative declarations made by the Government of Algeria upon ratification of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. The Government of Portugal having examined the contents of the said declarations reached the conclusion that they can be regarded as reservations and therefore should be considered invalid as well as incompatible with the purposes and object of the Covenants.

This objection shall not preclude the entry into force of the Covenants between Portugal and Algeria."

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13 October 2004

With regard to the declarations and the reservation made by Turkey upon ratification:

"The Government of Portugal considers that reservations by which a State limits its responsibilities under the International Covenant on Economic, Social and Cultural Rights (ICESCR) by invoking certain provisions of national law in general terms may create doubts as to the commitment of the reserving State to the object and purpose of the convention and, moreover, contribute to undermining the basis of international law. It is in the common interest of all 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 Portugal therefore objects to the reservation by Turkey to the ICESCR. This objection shall not constitute an obstacle to the entry into force of the Covenant between Portugal

and Turkey."

## **TERRITORIAL APPLICATION**

<u>Participant:</u>	<u>Date of receipt of the notification:</u>	<u>Territories:</u>
Portugal	27 Apr 1993	Macau

### Note

In its notification of territorial application to Macau, the Government of Portugal stated the following:

... The Covenants are confirmed and proclaimed binding and valid, and they shall have effect and be implemented and observed without exception, bearing in mind that:

*Article 1.* The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, ratified, respectively, by Act No. 29-78 of 12 June, and by Act No. 45-78 of 11 July, shall be applicable in the territory of Macau.

*Article 2.* 1. The applicability in Macau of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and in particular of article 1 in both Covenants, shall in no way effect the status of Macau as defined in the Constitution of the Portuguese Republic and in the Organic Statute of Macau.

2. The applicability of the Covenants in Macau shall in no way affect the provisions of the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau, signed on 13 April 1987, especially with respect to the provision specifying that Macau forms part of Chinese territory and that the Government of the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999, and that Portugal will be responsible for the administration until 19 December 1999.

*Article 3.* Article 25 (b) of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the composition of elected bodies and the method of choosing and electing their officials as defined in the Constitution of the Portuguese Republic, the Organic Statute of Macau and provisions of the Joint Declaration on the Question of Macau.

*Article 4.* Article 12 (4) and article 13 of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the entry and exit of individuals and the expulsion of

foreigners from the territory. These matters shall continue to be regulated by the Organic Statute of Macau and other applicable legislation, and also by the Joint Declaration on the Question of Macau.

*Article 5. 1. The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights that are applicable to Macau shall be implemented in Macau, in particular through specific legal documents issued by the organs of government of the territory.*

Subsequently, on 21 October and 3 December 1999, the Secretary-General received communications concerning the status of Macao from Portugal and China (see note 3 under "China" and note 1 under "Portugal" regarding Macao 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://untreaty.un.org/ENGLISH/bible/englishinternetbible/historicalinfo.asp>].* ).

*[Ed. note: Note 3 under China is as follows:*

*China*

*Note 3*

*By a notification dated 13 December 1999, the Government of the People's Republic of China informed the Secretary-General of the status of Macao in relation to treaties deposited with the Secretary-General. The notification, in pertinent part, reads as follows:*

*"In accordance with the Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macao signed on 13 April 1987 (hereinafter referred to as the Joint Declaration), the Government of the People's Republic of China will resume the exercise of sovereignty over Macao with effect from 20 December 1999. Macao will from that date, become a Special Administrative Region of the People's Republic of China. [For the full text of the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macao, 13 April 1987, see United Nation Treaty Series volume No. 1498, p. 229 (registration number I-25805)].*

*It is provided in Section 1 of Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Macao, which is Annex 1 to the Joint Declaration, and in Article 12, 13 and 14 of the Basic Law of the Macao Special Administrative Region of the People's Republic of China (hereinafter referred to as the Basic Law), which was adopted by the National People's Congress of the People's Republic of China on 31 March 1993, that the Macao Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government of the People's Republic of China. Furthermore, it is provided both in Section VIII of Annex 1 of the Joint Declaration and Article 138 of the Basic Law that international agreements to which the People's Republic of China is not yet*

*a party but which are implemented in Macao may continue to be implemented in the Macao Special Administrative Region.*

*In this connection, on behalf of the Government of the People's Republic of China, I have the honour to inform your Excellency that:*

*I. The treaties listed in Annex I to this Note [herein below], to which the People's Republic of China is a Party, will be applied to the Macao Special Administrative Region with effect from 20 December 1999 so long as they are one of the following categories:*

*(i) Treaties that apply to Macao before 20 December 1999;*

*(ii) Treaties that must apply to the entire territory of a state as they concern foreign affairs or defence or their nature or provision so require.*

*II. The Treaties listed in Annex II to this Note, to which the People's Republic of China is not yet a Party and which apply to Macao before 20 December 1999, will continue to apply to the Macao Special Administrative Region with the effect from 20 December 1999.*

*III. The Government of the People's Republic of China has notified the treaty depositaries concerned of the application of the treaties including their amendments and protocols listed in the aforesaid Annexes as well as reservations and declarations made thereto by the Chinese Government to the Macao Special Administrative Region with effect from 20 December 1999.*

*IV. With respect to other treaties that are not listed in the Annexes to this Note, to which the People's Republic of China is or will become a Party, the Government of the People's Republic of China will go through separately the necessary formalities for their application to the Macao Special Administrative Region if it so decided."*

*The treaties listed in Annexes I and II, referred to in the notification, are reproduced below.*

*Information regarding reservations and/or declarations made by China with respect to the application of treaties to the Macao Special Administrative Region can be found in the footnotes to the treaties concerned as published herein. Footnote indicators are placed against China's entry in the status list of those treaties.*

*Moreover, with regard to treaty actions undertaken by China after 1 July 1997, the Chinese Government confirmed that the territorial scope of each treaty action would be specified. As such, declarations concerning the territorial scope of the relevant treaties with regard to the Macao Special Administrative Region can be found in the footnotes to the treaties concerned as published herein. Footnote indicators are placed against China's entry in the status list of those treaties.*

*Annex I*

*(The treaties appear in the order as they are provided in these volumes.)*

...

*Human Rights:*

*- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966;*

*- Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979;*

*- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984;*

*- Convention on the Rights of the Child, 20 November 1989.*

*...]*

*[Ed. note: Note 1 under Portugal is as follows:*

*Portugal*

*Note 1*

*On 18 November 1999, the Secretary-General received from the Government of Portugal, the following communication:*

*"In accordance with the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau signed on 13 April 1987, the Portuguese Republic will continue to have international responsibility for Macau until 19 December 1999 and from that date onwards the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999.*

*From 20 December 1999 onwards the Portuguese Republic will cease to be responsible for the international rights and obligations arising from the application of [Conventions] to Macau."*

*See also note 3 under "China". [Ed. note: reproduced immediately above]]*

Upon resuming the exercise of sovereignty over Macao, China notified the Secretary-General that the Convention with reservation made by China will also apply to the Macao Special Administrative Region as well as with the following declaration:

1. The application of the Covenant, and its article 1 in particular, to the Macao Special Administrative Region shall not affect the status of Macao as defined in the Joint Declaration and

in the Basic Law.

2. The provisions of the Covenant which are applicable to the Macao Special Administrative Region shall be implemented in Macao through legislation of the Macao Special Administrative Region.

The residents of Macao shall not be restricted in the rights and freedoms that they are entitled to, unless otherwise provided for by law. In case of restrictions, they shall not contravene the provisions of the Covenant that are applicable to the Macao Special Administrative Region.

Within the above ambit, the Government of the People's Republic of China will assume the responsibility for the international rights and obligations that place on a Party to the Covenant.

*(Note 6, Chapter IV.3, Multilateral Treaties Deposited with the Secretary-General)*