

**5. OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND  
POLITICAL RIGHTS**

*New York, 16 December 1966*

**ENTRY INTO FORCE:** 23 March 1976, in accordance with article 9.

**REGISTRATION:** 23 March 1976, No. 14668.

**STATUS:** Signatories: 35. Parties: 116.<sup>1,2,3</sup>

**TEXT:** United Nations, *Treaty Series*, vol. 999, p. 171.

*Note:* The Protocol was opened for signature at New York on 19 December 1966.

<i>Participant<sup>4,5</sup></i>	<i>Signature, Succession to signature(d)</i>	<i>Ratification, Accession(a), Succession(d)</i>	<i>Participant<sup>4,5</sup></i>	<i>Signature, Succession to signature(d)</i>	<i>Ratification, Accession(a), Succession(d)</i>
Albania.....		4 Oct 2007 a	Croatia .....		12 Oct 1995 a
Algeria .....		12 Sep 1989 a	Cyprus.....	19 Dec 1966	15 Apr 1992
Andorra.....	5 Aug 2002	22 Sep 2006	Czech Republic <sup>6</sup> .....		22 Feb 1993 d
Angola .....		10 Jan 1992 a	Democratic Republic of the Congo.....		1 Nov 1976 a
Argentina .....		8 Aug 1986 a	Denmark .....	20 Mar 1968	6 Jan 1972
Armenia .....		23 Jun 1993 a	Djibouti.....		5 Nov 2002 a
Australia.....		25 Sep 1991 a	Dominican Republic .....		4 Jan 1978 a
Austria .....	10 Dec 1973	10 Dec 1987	Ecuador.....	4 Apr 1968	6 Mar 1969
Azerbaijan.....		27 Nov 2001 a	El Salvador .....	21 Sep 1967	6 Jun 1995
Barbados .....		5 Jan 1973 a	Equatorial Guinea .....		25 Sep 1987 a
Belarus .....		30 Sep 1992 a	Estonia .....		21 Oct 1991 a
Belgium .....		17 May 1994 a	Finland.....	11 Dec 1967	19 Aug 1975
Benin.....		12 Mar 1992 a	France .....		17 Feb 1984 a
Bolivia (Plurinational State of).....		12 Aug 1982 a	Gambia.....		9 Jun 1988 a
Bosnia and Herzegovina .....	1 Mar 1995	1 Mar 1995	Georgia .....		3 May 1994 a
Brazil .....		25 Sep 2009 a	Germany .....		25 Aug 1993 a
Bulgaria .....		26 Mar 1992 a	Ghana.....	7 Sep 2000	7 Sep 2000
Burkina Faso.....		4 Jan 1999 a	Greece.....		5 May 1997 a
Cabo Verde.....		19 May 2000 a	Guatemala.....		28 Nov 2000 a
Cambodia.....	27 Sep 2004		Guinea.....	19 Mar 1975	17 Jun 1993
Cameroon.....		27 Jun 1984 a	Guinea-Bissau.....	12 Sep 2000	24 Sep 2013
Canada .....		19 May 1976 a	Guyana <sup>2</sup> .....		5 Jan 1999 a
Central African Republic .....		8 May 1981 a	Honduras.....	19 Dec 1966	7 Jun 2005
Chad.....		9 Jun 1995 a	Hungary .....		7 Sep 1988 a
Chile.....		27 May 1992 a	Iceland .....		22 Aug 1979 a
Colombia .....	21 Dec 1966	29 Oct 1969	Ireland.....		8 Dec 1989 a
Congo.....		5 Oct 1983 a	Italy.....	30 Apr 1976	15 Sep 1978
Costa Rica.....	19 Dec 1966	29 Nov 1968	Jamaica <sup>3</sup> .....	[19 Dec 1966]	[ 3 Oct 1975 ]
Côte d'Ivoire .....		5 Mar 1997 a	Kazakhstan.....	25 Sep 2007	30 Jun 2009
			Kyrgyzstan.....		7 Oct 1994 a

<i>Participant<sup>4,5</sup></i>	<i>Signature, Succession to signature(d)</i>	<i>Ratification, Accession(a), Succession(d)</i>	<i>Participant<sup>4,5</sup></i>	<i>Signature, Succession to signature(d)</i>	<i>Ratification, Accession(a), Succession(d)</i>
Latvia.....		22 Jun 1994 a	Russian Federation .....		1 Oct 1991 a
Lesotho .....		6 Sep 2000 a	San Marino .....		18 Oct 1985 a
Liberia.....	22 Sep 2004		Sao Tome and Principe..	6 Sep 2000	23 Mar 2017
Libya.....		16 May 1989 a	Senegal.....	6 Jul 1970	13 Feb 1978
Liechtenstein.....		10 Dec 1998 a	Serbia.....	12 Mar 2001 d	6 Sep 2001
Lithuania.....		20 Nov 1991 a	Seychelles .....		5 May 1992 a
Luxembourg.....		18 Aug 1983 a	Sierra Leone.....		23 Aug 1996 a
Madagascar.....	17 Sep 1969	21 Jun 1971	Slovakia <sup>6</sup> .....		28 May 1993 d
Malawi.....		11 Jun 1996 a	Slovenia .....		16 Jul 1993 a
Maldives .....		19 Sep 2006 a	Somalia .....		24 Jan 1990 a
Mali.....		24 Oct 2001 a	South Africa.....		28 Aug 2002 a
Malta.....		13 Sep 1990 a	Spain .....		25 Jan 1985 a
Mauritius.....		12 Dec 1973 a	Sri Lanka.....		3 Oct 1997 a
Mexico .....		15 Mar 2002 a	St. Vincent and the Grenadines .....		9 Nov 1981 a
Mongolia.....		16 Apr 1991 a	Suriname.....		28 Dec 1976 a
Montenegro <sup>7</sup> .....		23 Oct 2006 d	Sweden.....	29 Sep 1967	6 Dec 1971
Namibia .....		28 Nov 1994 a	Tajikistan .....		4 Jan 1999 a
Nauru .....	12 Nov 2001		The former Yugoslav Republic of Macedonia.....	12 Dec 1994 d	12 Dec 1994
Nepal.....		14 May 1991 a	Togo.....		30 Mar 1988 a
Netherlands <sup>8</sup> .....	25 Jun 1969	11 Dec 1978	Trinidad and Tobago <sup>1</sup> ....		[14 Nov 1980 a]
New Zealand <sup>9</sup> .....		26 May 1989 a	Tunisia .....		29 Jun 2011 a
Nicaragua.....		12 Mar 1980 a	Turkey.....	3 Feb 2004	24 Nov 2006
Niger .....		7 Mar 1986 a	Turkmenistan.....		1 May 1997 a
Norway .....	20 Mar 1968	13 Sep 1972	Uganda.....		14 Nov 1995 a
Panama.....	27 Jul 1976	8 Mar 1977	Ukraine .....		25 Jul 1991 a
Paraguay .....		10 Jan 1995 a	Uruguay .....	21 Feb 1967	1 Apr 1970
Peru.....	11 Aug 1977	3 Oct 1980	Uzbekistan .....		28 Sep 1995 a
Philippines .....	19 Dec 1966	22 Aug 1989	Venezuela (Bolivarian Republic of).....	15 Nov 1976	10 May 1978
Poland.....		7 Nov 1991 a	Zambia.....		10 Apr 1984 a
Portugal.....	1 Aug 1978	3 May 1983			
Republic of Korea.....		10 Apr 1990 a			
Republic of Moldova.....	16 Sep 2005	23 Jan 2008			
Romania.....		20 Jul 1993 a			

### ***Declarations and Reservations***

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

#### **AUSTRIA**

"On the understanding that, further to the provisions of article 5 (2) of the Protocol, the Committee provided for in Article 28 of the Covenant shall not consider any communication from an individual unless it has been ascertained that the same matter has not been examined by the European Commission on Human Rights established by the European Convention for the Protection of Human Rights and Fundamental Freedoms."

#### **CHILE**

In recognizing the competence of the Human Rights Committee to receive and consider communications from individuals, it is the understanding of the Government of Chile that this competence applies in respect of acts occurring after the entry into force for that State of the Optional Protocol or, in any event, to acts which began after 11 March 1990.

#### **CROATIA**

"The Republic of Croatia interprets article 1 of this Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Croatia who claim to be victims of a violation by the Republic of any rights set forth in the Covenant which results either from acts, omissions or events occurring after the date on which the Protocol entered into force for the Republic of Croatia."

"With regard to article 5, paragraph 2 (a) of the Protocol, the Republic of Croatia specifies that the Human Rights Committee shall not have competence to consider a communication from an individual if the same matter is being examined or has already been examined under another procedure of international investigation or settlement."

#### **DENMARK**

"With reference to article 5, paragraph 2 (a), the Government of Denmark makes a reservation with respect to the Competence of the Committee to consider a communication from an individual if the matter has already been considered under other procedures of international investigation."

#### **EL SALVADOR**

... That its provisions mean that the competence of the Human Rights Committee is recognized solely to receive and consider communications from individuals solely and exclusively in those situations, events, cases, omissions and legal occurrences or acts the execution of which began after the date of deposit of the instrument of ratification, that is, those which took place three months after the date of the deposit, pursuant to article 9, paragraph 2, of the Protocol; the Committee being also without competence to examine communications and/or complaints which have been submitted to other procedures of international investigation or settlement.

#### **FRANCE**

France interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the French Republic who claim to be victims of a violation by the Republic of any of the rights set forth in the Covenant which results either from acts, omissions, developments or events occurring after the date on which the Protocol entered into force for the Republic, or from a decision relating to acts, omissions, developments or events after that date. With regard to article 7, France's accession to the Optional Protocol should not be interpreted as implying any change in its position concerning the resolution referred to in that article.

France makes a reservation to article 5, paragraph 2(a), specifying that the Human Rights Committee shall not have competence to consider a communication from an individual if the same matter is being examined or has already been considered under another procedure of international investigation or settlement.

#### **GERMANY**

"The Federal Republic of Germany formulates a reservation concerning article 5 paragraph 2 (a) to the effect that the competence of the Committee shall not apply to communications

a) which have already been considered under another procedure of international investigation or settlement, or

b) by means of which a violation of rights is reprimanded having its origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany

c) by means of which a violation of article 26 of the [said Covenant] is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant."

#### **GUATEMALA**

The Republic of Guatemala recognizes the competence of the Human Rights Committee to receive and consider communications from individuals subject to the jurisdiction of the Republic who claim to be victims of a violation by Guatemala of any of the rights set forth in the International Covenant relating to acts, omissions, situations or events occurring after the date on which the Optional Protocol entered into force for the Republic of Guatemala or to decisions resulting from acts, omissions, situations or events after that date.

#### **GUYANA<sup>2</sup>**

#### **ICELAND**

Iceland ... accedes to the said Protocol subject to a reservation, with reference to article 5, paragraph 2, with respect to the competence of the Human Rights Committee to consider a communication from an individual if the matter is being examined or has been examined under another procedure of international investigation or settlement. Other provisions of the Covenant shall be inviolably observed.

#### **IRELAND**

Ireland does not accept the competence of the Human Rights Committee to consider a communication from an individual if the matter has already been considered under another procedure of international investigation or settlement.

#### **ITALY**

The Italian Republic ratifies the Optional Protocol to the International Covenant on Civil and Political Rights, it being understood that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee provided for in article 28 of the Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being and has not been examined under another procedure of international investigation or settlement.

#### **KAZAKHSTAN**

The Republic of Kazakhstan, in accordance with article 1 of the Optional Protocol to the International Covenant on Civil and Political Rights, recognizes the competence of the Human Rights Committee to receive and consider communications from individuals subject to the jurisdiction of the Republic of Kazakhstan concerning actions and omissions by the State authorities or acts or decisions

adopted by them following the entry into force of this Optional Protocol in the Republic of Kazakhstan.

#### **LUXEMBOURG**

"The Grand Duchy of Luxembourg accedes to the Optional Protocol to the International Covenant on Civil and Political Rights, on the understanding that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee established by article 28 of the Covenant shall not consider any communications from an individual unless it has ascertained that the same matter is

not being examined or has not already been examined under another procedure of international investigation or settlement."

#### **MALTA**

" 1. Malta accedes to the Optional Protocol to the International Covenant on Civil and Political Rights, on the understanding that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee established by article 28 of the Covenant, shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined or has not already been examined under another procedure of international investigation or settlement.

"2. The Government of Malta interprets Article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of Malta who claim to be victims of a violation by Malta of any of the rights set forth in the Covenant which results either from acts, omissions, developments or events occurring after the date on which the Protocol enters into force for Malta, or from a decision relating to acts, omissions, developments or events after that date."

#### **NORWAY**

Subject to the following reservation to article 5, paragraph 2: "... The Committee shall not have competence to consider a communication from an individual if the same matter has already been examined under other procedures of international investigation or settlement."

#### **POLAND**

Poland accedes to the Protocol while making a reservation that would exclude the procedure set out in article 5 (2) (a), in cases where the matter has already been examined under another procedure of international investigation or settlement.

#### **REPUBLIC OF MOLDOVA**

Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the [Protocol] will be applied only on the territory controlled effectively by the authorities of the Republic of Moldova.

The Human Rights Committee shall not have competence to examine communications from individuals referring to violations of any of the rights set forth in the International Covenant on Civil and Political Rights committed until the date of the enter into force of the present Protocol for the Republic of Moldova.

According to the Article 5 paragraph (2) letter a) of the Protocol: the Human Rights Committee shall not have competence to consider communications from an individual if the matter is being or has already been examined by another international specialized body.

#### **ROMANIA**

Romania considers that, in accordance with article 5, paragraph 2(a) of the Protocol, the Human Rights Committee shall not have competence to consider communications from an individual if the matter is being or has already been examined under another procedure of international investigation or settlement.

#### **RUSSIAN FEDERATION**

The Union of Soviet Socialist Republics, pursuant to article 1 of the Optional Protocol, recognizes the competence of the Human Rights Committee to receive and consider communications from individuals subject to

the jurisdiction of the Union of Soviet Socialist Republics, in respect of situations or events occurring after the date on which the Protocol entered into force for the USSR. The Soviet Union also proceeds from the understanding that the Committee shall not consider any communications unless it has been ascertained that the same matter is not being examined under another procedure of international investigation or settlement and that the individual in question has exhausted all available domestic remedies.

#### **SLOVENIA**

"The Republic of Slovenia interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Slovenia who claim to be victims of a violation by the Republic of any of the rights set forth in the Covenant which results either from acts or omissions, developments or events occurring after the date on which the Protocol entered into force for the Republic of Slovenia, or from a decision relating to acts, omissions, developments or events after that date."

"With regard to article 5, paragraph 2(a) of the Optional Protocol, the Republic of Slovenia specifies that the Human Rights Committee shall not have competence to consider a communication from an individual if the same matter is being examined or has already been considered under another procedure of international investigation or settlement."

#### **SPAIN**

The Spanish Government accedes to the Optional Protocol to the International Covenant on Civil and Political Rights, on the understanding that the provisions of article 5, paragraph 2, of that Protocol mean that the Human Rights Committee shall not consider any communication from an individual unless it has ascertained that the same matter has not been or is not being examined under another procedure of international investigation or settlement.

#### **SRI LANKA**

##### *Declaration:*

"The Government of the Democratic Socialist Republic of Sri Lanka pursuant to article (1) of the Optional Protocol recognises the competence of the Human Rights Committee to receive and consider communications from individuals subject to the jurisdiction of the Democratic Socialist Republic of Sri Lanka, who claim to be victims of a violation of any of the rights set forth in the Covenant which results either from acts, omissions, developments or events occurring after the date on which the Protocol entered into force for the Democratic Socialist Republic of Sri Lanka or from a decision relating to acts, omissions, developments or events after that date. The Democratic Socialist Republic of Sri Lanka also proceeds on the understanding that the Committee shall not consider any communication from individuals unless it has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement."

#### **SWEDEN**

On the understanding that the provisions of article 5, paragraph 2, of the Protocol signify that the Human Rights Committee provided for in article 28 of the said Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined or has not been examined under

another procedure of international investigation or settlement.

#### TRINIDAD AND TOBAGO<sup>1</sup>

"[...] Trinidad and Tobago re-accedes to the Optional Protocol to the International Covenant on Civil and Political Rights with a Reservation to article 1 thereof to the effect that the Human Rights Committee shall not be competent to receive and consider communications relating to any prisoner who is under sentence of death in respect of any matter relating to his prosecution, his detention, his trial, his conviction, his sentence or the carrying out of the death sentence on him and any matter connected therewith.

Accepting the principle that States cannot use the Optional Protocol as a vehicle to enter reservations to the International Covenant on Civil and Political Rights itself, the Government of Trinidad and Tobago stresses that its Reservation to the Optional Protocol in no way detracts from its obligations and engagements under the Covenant, including its undertaking to respect and ensure to all individuals within the territory of Trinidad and Tobago and subject to its jurisdiction the rights recognised in the Covenant (in so far as not already reserved against) as set out in article 2 thereof, as well as its undertaking to report to the Human Rights Committee under the monitoring mechanism established by article 40 thereof."

#### TURKEY

"The Republic of Turkey declares that the three declarations and the reservation made by the Republic to the International Covenant on Civil and Political Rights shall also apply to the present Optional Protocol.

"The Republic of Turkey interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Turkey who claim to be the victims of a violation by the Republic of any of the rights set forth in the Covenant."

"The Republic of Turkey formulates a reservation concerning article 5 paragraph 2 (a) of the Protocol to the effect that the competence of the Committee:

a) shall not apply to communications from individuals if the same matter has already been considered or is being considered under another procedure of international investigation or settlement.

b) shall be limited to communications concerning alleged violations which result either from acts, omissions, developments or events that may occur within the national boundaries of the territory of the Republic of Turkey after the date on which the protocol enters into force for the Republic of Turkey, or from a decision relating to acts, omissions, developments or events that may occur within the national boundaries of

the territory of the Republic of Turkey after the date on which the Protocol enters into force for the Republic of Turkey.

c) shall not apply to communications by means of which a violation of article 26 of the International Covenant on Civil and Political Rights is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant."

"The Republic of Turkey declares that the three declarations and the reservation made by the Republic to the International Covenant on Civil and Political Rights shall also apply to the present Optional Protocol."

"The Republic of Turkey interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Turkey who claim to be the victims of a violation by the Republic of any of the rights set forth in the Covenant."

The three declarations and the reservation made by the Republic of Turkey to the International Covenant on Civil and Political Rights read as follows:

The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations. The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.

#### UGANDA

"The Republic of Uganda does not accept the competence of the Human Rights Committee to consider a communication under the provisions of article 5 paragraph 2 from an individual if the matter in question has already been considered under another procedure of international investigation or settlement."

#### VENEZUELA (BOLIVARIAN REPUBLIC OF)

[Same reservation as the one made by Venezuela in respect of article 14(3)(d) of the International Covenant on Civil and Political Rights: see chapter IV.4.]

### **Objections**

***(Unless otherwise indicated the objections were made upon ratification, accession or succession.)***

#### DENMARK

"The Government of the Kingdom of Denmark finds that the reservation made by the Government of Trinidad and Tobago at the time of its re-accession to the Optional Protocol to the International Covenant on Civil and Political Rights raises doubts as to the commitment of Trinidad and Tobago to the object and purpose of the Optional Protocol.

The reservation seeks to limit the obligations of the reserving State towards individuals under sentence of death. The purpose of the Optional Protocol to the

International Covenant on Civil and Political Rights is to strengthen the position of the individual under the Covenant. Denying the benefits of the Optional Protocol to a group of individuals under the most severe sentence is not in conformity with the object and purpose of the Optional Protocol.

The procedure followed by Trinidad and Tobago, of denouncing the Optional Protocol followed by a re-accession with a reservation circumvents the rules of the law of treaties that prohibit the formulation of reservations after ratification. The Government of the Kingdom of Denmark therefore objects to the

aforementioned reservation made by the Government of Trinidad and Tobago to the Optional Protocol to the International Covenant on Civil and Political Rights.

The objection shall not preclude the entry into force of the Optional Protocol between the Government of the Kingdom of Denmark and the Government of Trinidad and Tobago."

#### FRANCE

... While article 12, paragraph 1, of the Protocol provides that any State Party may denounce the Protocol 'at any time', with the denunciation taking effect 'three months after the date of receipt of the notification by the Secretary-General', denunciation of the Protocol may not in any case be used by a State Party for the purpose of formulating reservations to the Covenant well after the party has signed, ratified or acceded thereto. Such a practice would call into question international commitments by a sort of abuse of process; it would be a clear violation of the principle of good faith that prevails in international law and would be incompatible with the rule of *pacta sunt servanda*. The means used (denunciation and accession on the same day to the same instrument but with a reservation) cannot but elicit a negative reaction.

Consequently, the Government of the French Republic expresses its objection to the reservation made by Guyana.

#### GERMANY

"The purpose of the Protocol is to strengthen the position of the individual under the Covenant. While the Government of the Federal Republic of Germany welcomes the decision of the Government of Guyana to reaccede to the Optional Protocol it holds the view that the benefits of the Optional Protocol should not be denied to individuals who are under the most severe sentence, the sentence of death. Furthermore, the Government of the Federal Republic of Germany is of the view that denunciation of an international human rights instrument followed by immediate reaccession under a far reaching reservation may set a bad precedent.

The Government of the Federal Republic of Germany objects to the reservation. This objection shall not preclude the entry into force of the Optional Protocol between the Federal Republic of Germany and Guyana".

#### NETHERLANDS

"

2. ... The Government of the Kingdom of the Netherlands is of the view that this reservation, which seeks to limit the obligations of the reserving State towards individuals under sentence of death, raises doubts as to the object and purpose of the Optional Protocol.

3. The Government of the Netherlands considers that the purpose of the Optional Protocol [to the International Covenant on Civil and Political Rights] is to strengthen the position of the individual under the Covenant. Denying the benefits of the Optional Protocol in relation to the Covenant to a group of individuals under the most severe sentence is fundamentally in conflict with the object and purpose of the Optional Protocol.

4. Also the Government of the Kingdom of the Netherlands considers the procedure followed by Guyana, of denouncing the Optional Protocol followed by a re-

accession with reservations, as contrary to the rules of the law of treaties that prohibit the formulation of reservations after ratification. The procedure followed by Guyana circumvents such well-established rules.

5. The Government of the Kingdom of the Netherlands therefore objects to the aforementioned reservation made by the Government of Guyana to the Optional Protocol to the International Covenant on Civil and Political Rights.

6. This objection shall not preclude the entry into force of the Optional Protocol between the Kingdom of the Netherlands and Guyana".

#### NORWAY

"The Government of Norway considers that the object and purpose of the Optional Protocol is to contribute to securing the compliance with the provisions of the International Covenant on Civil and Political Rights by strengthening the position of the individual under the Covenant. Due to the universality of all Human Rights, the right to petition, which is enshrined in article 1 of the Optional Protocol, must apply to all individuals that are subject to the State Party's jurisdiction. Further, denying the benefits of the Optional Protocol in relation to the Covenant to a vulnerable group of individuals will contribute to further weakening of that group's position which the Government of Norway considers to be contrary to the object and purpose of the Optional Protocol.

Further, the Government of Norway is concerned with regard to the procedure followed by Trinidad and Tobago. The Government of Norway considers the denunciation of the Optional Protocol followed by a re-accession upon which a reservation is entered, as a circumvention of established rules of the law of treaties that prohibit the submission of reservations after ratification.

For these reasons, the Government of Norway objects to the reservation made by Trinidad and Tobago.

This objection shall not preclude the entry into force of the Optional Protocol between the Kingdom of Norway and Trinidad and Tobago."

#### SPAIN

The Government of the Kingdom of Spain considers that this reservation raises doubts about the commitment of the Republic of Guyana to the purpose and goal of the Optional Protocol, which is to strengthen the position of the individual with regard to the rights protected by the International Covenant on Civil and Political Rights. The reservation, on the other hand, seeks to limit the international obligations of Guyana towards individuals who are under sentence of death.

The Government of Spain also has doubts about the correctness of the procedure followed by the Government of Guyana, inasmuch as denunciation of the Optional Protocol followed by re-accession to it with a reservation prejudices the ratification process and undermines the international protection of human rights.

Consequently, the Government of Spain objects to the aforesaid reservation made by the Government of the Republic of Guyana to the Optional Protocol to the International Covenant on Civil and Political Rights.

This objection does not prevent the entry into force of the Optional Protocol between the Kingdom of Spain and the Republic of Guyana.

### *Territorial Application*

<i>Participant</i>	<i>Date of receipt of the notification</i>	<i>Territories</i>
Netherlands <sup>8</sup>	11 Dec 1978	Netherlands Antilles

**Notes:**

<sup>1</sup> The Government of Trinidad and Tobago acceded to the Optional Protocol on 14 November 1980. On 26 May 1998 the Government of Trinidad and Tobago informed the Secretary-General of its decision to denounce the Optional Protocol with effect from 26 August 1998. On 26 August 1998, the Government of Trinidad and Tobago re-accessed to the Optional Protocol with a reservation. On 27 March 2000, the Government of Trinidad and Tobago notified the Secretary-General that it had decided to denounce the Optional Protocol for the second time with effect from 27 June 2000.

The Secretary-General received communications from the following States on the dates indicated hereinafter:

*Netherlands (6 August 1999):*

"1. [...]

2. The Government of the Kingdom of the Netherlands is of the view that this reservation, which seeks to limit the obligations of the reserving State towards individuals under sentence of death, raises doubts as to the commitment of Trinidad and Tobago to the object and purpose of the Optional Protocol.

3. The Government of the Kingdom of the Netherlands considers that the purpose of the Optional Protocol to the International Covenant on Civil and Political Rights is to strengthen the position of the individual under the Covenant. Denying the benefits of the Optional Protocol in relation to the Covenant to a group of individuals under the most severe sentence is fundamentally in conflict with the object and purpose of the Optional Protocol.

4. Also the Government of the Kingdom of the Netherlands considers the procedure followed by Trinidad and Tobago, of denouncing the Optional Protocol followed by a re-accession with reservations, as contrary to the rules of the law of treaties that prohibit the formulation of reservations after ratification. The procedure followed by Trinidad and Tobago circumvents such well-established rules.

5. The Government of the Kingdom of the Netherlands therefore objects to the aforementioned reservation made by the Government of Trinidad and Tobago to the Protocol of the International Covenant on Civil and Political Rights.

6. This objection shall not preclude the entry into force of the Optional Protocol between the Kingdom of the Netherlands and Trinidad and Tobago."

*Germany (13 August 1999):*

"The purpose of the Protocol is to strengthen the position of the individual under the Covenant. While the Government of the Federal Republic of Germany welcomes the decision of the Government of Trinidad and Tobago to re-access to the Optional

Protocol it holds the view that the benefits of the Optional Protocol should not be denied to individuals who are under the most severe sentence, the sentence of death. Furthermore, the Government of the Federal Republic of Germany is of the view that denunciation of an international human rights instrument followed by immediate re-accession under a far reaching reservation may set a bad precedent.

The Government of the Federal Republic of Germany objects to the reservation. This objection shall not preclude the entry into force of the Optional Protocol between the Federal Republic of Germany and Trinidad and Tobago."

*Sweden (17 August 1999):*

"The Government of Sweden notes that the Government of Trinidad and Tobago accepts the principle that States cannot use the Optional Protocol as a vehicle to enter reservations to the International Covenant on Civil and Political Rights itself, and it stresses that its reservation in no way detracts from its obligations and engagements under the Covenant.

Nevertheless the Government of Sweden has serious doubts as to the propriety of the procedure followed by the Government of Trinidad and Tobago in that denunciation of the Optional Protocol succeeded by re-accession with a reservation undermines the basis of international treaty law as well as the international protection of human rights. The Government of Sweden therefore wishes to declare its grave concern over this method of proceeding.

Furthermore the reservation seeks to limit the international obligations of Trinidad and Tobago towards individuals under sentence to death. The Government of Sweden is of the view that the right to life is fundamental and that the death penalty cannot be accepted.

It is therefore of utmost importance that states that persist in this practice refrain from further weakening the position of that group of individuals."

*Ireland (23 August 1999) :*

"1. [...]

2. The Government of Ireland is of the view that this reservation raises doubts as to the commitment of Trinidad and Tobago to the object and purpose of the Optional Protocol, which is to strengthen the position of the individual in respect of the rights protected by the International Covenant on Civil and Political Rights. The reservation on the contrary seeks to limit the international obligations of Trinidad and Tobago towards individuals under sentence of death.

3. The Government of Ireland also has doubts as to the propriety of the procedure followed by the Government of Trinidad and Tobago in that denunciation of the Optional

Protocol, succeeded by re-accession with a reservation, compromises the ratification process and undermines the International protection of human rights.

4. The Government of Ireland therefore objects to the aforementioned reservation made by the Government of Trinidad and Tobago to the Optional Protocol to the International Covenant on Civil and Political Rights.

5. The objection shall not preclude the entry into force of the Optional Protocol between Ireland and Trinidad and Tobago."

*Spain (25 August 1999):*

The Government of the Kingdom of Spain believes that this reservation casts doubt on the commitment of Trinidad and Tobago to the object and purpose of the Optional Protocol, which is clearly to strengthen the individual's position with respect to the rights enshrined in the International Covenant on Civil and Political Rights. On the contrary, the aim of the reservation is to limit the international obligations of Trinidad and Tobago towards individuals under sentence of death.

The Government of the Kingdom of Spain also has reservations about whether the Government of Trinidad and Tobago has followed the proper procedure; the denunciation of the Optional Protocol, followed by re-accession to it with a reservation, prejudices the ratification process and undermines the international protection of human rights.

Accordingly, the Government of Spain objects to this reservation made by the Government of Trinidad and Tobago to the Optional Protocol to the International Covenant on Civil and Political Rights.

This objection does not preclude the entry into force of the Optional Protocol as between the Kingdom of Spain and Trinidad and Tobago.

*France (9 September 1999):*

[...] While article 12, paragraph 1, of the Protocol provides that any State Party may denounce the Protocol "at any time" and that the denunciation shall take effect "three months after the date of receipt of the notification by the Secretary-General", the denunciation of the Protocol may in no case be used by a State Party for the sole purpose of formulating reservations to that instrument after having signed, ratified or acceded to it. Such a practice would undermine international commitments by constituting a form of misuse of procedure, would be manifestly contrary to the principle of good faith prevailing in international law and would contravene the rule of *pacta sunt servanda*. The means used (denunciation and accession on the same day to the same instrument, but with a reservation) cannot but prompt a negative reaction, irrespective of the doubts which may arise as to the compatibility of this reservation with the goal and purpose of the treaty.

Consequently, the Government of the French Republic expresses its disapproval of the reservation formulated by Trinidad and Tobago.

*Italy (17 September 1999):*

"The Government of the Italian Republic finds that the reservation made by the Government of Trinidad and Tobago at

the time of its re-accession to the Optional Protocol to the International Covenant on Civil and Political Rights raises doubts as to the commitment of Trinidad and Tobago to the object and purpose of the Optional Protocol which is to strengthen the position of the individual in respect of the rights under the Covenant.

The reservation on the contrary seeks to limit the international obligations of Trinidad and Tobago towards individuals under sentence of death. The Government of the Italian Republic also has doubts as to the propriety of the procedure followed by the Government of Trinidad and Tobago in that denunciation of the Optional Protocol, succeeded by a re-accession with a reservation compromises the ratification process and undermines the international protection of human rights. The Government of the Italian Republic therefore objects to the aforementioned reservation made by the Government of Trinidad and Tobago to the Optional Protocol to the International Covenant on Civil and Political Rights. This objection shall not preclude the entry into force of the Optional Protocol between Italy and Trinidad and Tobago." The Government of Trinidad and Tobago initially acceded to the Optional Protocol on 14 November 1980. On 26 May 1998, the Government of Trinidad and Tobago informed the Secretary-General of its decision to denounce the Optional Protocol with effect from 26 August 1998. On that same date, the Government of Trinidad and Tobago re-accessed to the Optional Protocol. The new accession took effect on 26 August 1998.

The reservation on the contrary seeks to limit the international obligations of Trinidad and Tobago towards individuals under sentence of death. The Government of the Italian Republic also has doubts as to the propriety of the procedure followed by the Government of Trinidad and Tobago in that denunciation of the Optional Protocol, succeeded by a re-accession with a reservation compromises the ratification process and undermines the international protection of human rights. The Government of the Italian Republic therefore objects to the aforementioned reservation made by the Government of Trinidad and Tobago to the Optional Protocol to the International Covenant on Civil and Political Rights. This objection shall not preclude the entry into force of the Optional Protocol between Italy and Trinidad and Tobago." The Government of Trinidad and Tobago initially acceded to the Optional Protocol on 14 November 1980. On 26 May 1998, the Government of Trinidad and Tobago informed the Secretary-General of its decision to denounce the Optional Protocol with effect from 26 August 1998. On that same date, the Government of Trinidad and Tobago re-accessed to the Optional Protocol. The new accession took effect on 26 August 1998.

<sup>2</sup> The Government of Guyana had initially acceded to the Optional Protocol on 10 May 1993 (See, [C.N.182.1993.TREATIES-2](#) of 27 August 1993). On 5 January 1999, the Government of Guyana notified the Secretary-General that it had decided to denounce the said Optional Protocol with effect from 5 April 1999. On that same date, the Government of Guyana re-accessed to the Optional Protocol with a reservation.

Subsequently, the Secretary-General received the following communications from the following States on the dates indicated hereinafter:

*Finland (17 March 2000):*



“The Government of Finland is of the view that denying the rights recognised in the Optional Protocol from individuals under the most severe sentence is in contradiction with the object and purpose of the said Protocol.

Furthermore, the Government of Finland wishes to express its serious concern as to the procedure followed by Guyana, of denouncing the Optional Protocol (to which it did not have any reservations) followed by an immediate re-accession with a reservation. The Government of Finland is of the view that such a procedure is highly undesirable as circumventing the rule of the law of treaties that prohibits the formulation of reservations after accession.

The Government of Finland therefore objects to the reservation made by the Government of Guyana to the said Protocol.

This objection does not preclude the entry into force of the Optional Protocol between Guyana and Finland. The Optional Protocol will thus become operative between the two states without Guyana benefitting from the reservation”.

*Sweden (27 April 2000):*

“The Government of Sweden has examined the reservation to article 1 made by the Government of Guyana at the time of its re-accession to the Optional Protocol. The Government of Sweden notes that the Government of Guyana accepts the principle that States cannot use the Optional Protocol as a vehicle to enter reservations to the International Covenant on Civil and Political Rights itself, and that it stresses that its reservation in no way detracts from its obligations and engagements under the Covenant.

Nevertheless, the Government of Sweden has serious doubts as to the propriety of the procedure followed by the Government of Guyana. While article 12, paragraph 1 of the Protocol provides that any State Party may denounce the Protocol “at any time”, the denunciation may in no case be used by a State Party for the sole purpose of formulating reservations to that instrument after having re-acceded to it. Such a practice would constitute a misuse of the procedure and would be manifestly contrary to the principle of good faith. It further contravenes the rule of *pacta sunt servanda*. As such, it undermines the basis of international treaty law and the protection of human rights. The Government of Sweden therefore wishes to declare its grave concern over this method of proceeding.

Furthermore, the reservation seeks to limit the international obligations of Guyana towards individuals under sentence of death. The Government of Sweden is of the view that the right to life is fundamental and that the death penalty cannot be accepted. It is therefore of utmost importance that states that persist in this practice refrain from further weakening the position of that group of individuals.”

*Poland (8 August 2000):*

The Government of the Republic of Poland believes that this reservation seeks to deny the benefits of the Optional Protocol towards a group of individuals under the sentence of death. This reservation is contrary to the object and purpose of the Protocol which is to strengthen the position of individuals in respect of the human rights protected by the Covenant. Furthermore the Government of the Republic of Poland considers the procedure

followed by the Government of the Republic of Guyana in the denunciation of the Optional Protocol, and its subsequent re-accession with reservation as not consistent with the law of treaties and clearly undermining the Protocol. The Government of the Republic of Poland therefore objects to the above mentioned reservation made by the Government of the Republic of Guyana. This objection does not preclude the entry into force of the Optional Protocol between the Republic of Poland and the Republic of Guyana.

<sup>3</sup> On 23 October 1997, the Government of Jamaica notified the Secretary-General of its denunciation of the Protocol.

<sup>4</sup> Signed on behalf of the Republic of China on 5 October 1967. See also note 1 under “China” in the “Historical Information” section in the front matter of this volume.

With reference to the above-mentioned signature, communications have been addressed to the Secretary-General by the Permanent Representatives of Permanent Missions to the United Nations of Bulgaria, Byelorussian SSR, Czechoslovakia, Mongolia, Romania, the Ukrainian SSR, the Union of Soviet Socialist Republics and Yugoslavia, stating that their Governments did not recognize the said signature as valid since the only Government authorized to represent China and to assume obligations on its behalf was the Government of the People's Republic of China.

In letters addressed to the Secretary-General in regard to the above-mentioned communications, the Permanent Representative of China to the United Nations stated that the Republic of China, a sovereign State and Member of the United Nations, had attended the twenty-first regular session of the General Assembly of the United Nations and contributed to the formulation of, and signed the Covenants and the Optional Protocol concerned, and that “any statements or reservations relating to the above-mentioned Covenants and Optional Protocol that are incompatible with or derogatory to the legitimate position of the Government of the Republic of China shall in no way affect the rights and obligations of the Republic of China under these Covenants and Optional Protocol”.

<sup>5</sup> The former Yugoslavia had signed the Optional Protocol on 14 March 1990. See also note 1 under “Bosnia and Herzegovina”, “Croatia”, “former Yugoslavia”, “Slovenia”, “The Former Yugoslav Republic of Macedonia” and “Yugoslavia” in the “Historical Information” section in the front matter of this volume.

<sup>6</sup> Czechoslovakia acceded to the Optional Protocol on 12 March 1991. See also note 1 under “Czech Republic” and note 1 under “Slovakia” in the “Historical Information” section in the front matter of this volume.

<sup>7</sup> See note 1 under “Montenegro” in the “Historical Information” section in the front matter of this volume.

<sup>8</sup> See notes 1 and 2 under “Netherlands” regarding Aruba/Netherlands Antilles in the “Historical Information” section in the front matter of this volume.

<sup>9</sup> See note 1 under “New Zealand” regarding Tokelau in the “Historical Information” section in the front matter of this volume.

