

## Geneva Protocol reservations

[List compiled by Richard Guthrie, October 2011]

Reservations mostly take the form of (1) limiting the remit of the protocol as only binding in relation to states that have become party to it and (2) reserving a right to use the methods of warfare prohibited by the protocol if the state is subject to an attack by such methods.

[*Note:* A number of Arab states included reservations that, in summary, stated that becoming a party to the Protocol did not constitute recognition of Israel. For space reasons, these reservations, or elements of reservations, have not been included within this list.]

The following states explicitly retain reservations to the Geneva Protocol.

### Algeria

“The Algerian Government will be bound by the Protocol only with regard to States which have ratified or have adhered to it and will cease to be bound by the said Protocol with regard to any State whose armed forces or whose allies' armed forces do not respect the provisions of the Protocol”.

### Angola

“In acceding to the Protocol of 17 June 1925, the People's Republic of Angola declares that the latter is binding only on those States which have signed and ratified or which have definitively acceded to the Protocol. In acceding to the Protocol of 17 June 1925, the People's Republic of Angola declares that the latter would cease to be binding on all enemy States whose armed forces or whose allies, de jure or de facto do not respect the prohibitions which are the object of the said Protocol”.

### Bahrain

“The said Protocol is only binding on the Government of the State of Bahrain as regards those States which have signed and ratified the Protocol or have acceded thereto; The said Protocol shall cease to be binding on the Government of the State of Bahrain in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol; ...”

### Bangladesh

“The said Protocol is only binding on the Government of Bangladesh as regards those States which have signed and ratified the Protocol or have acceded thereto; The said Protocol shall cease to be binding on the Government of Bangladesh in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol.”

### Cambodia

In a note verbale of 30 September 1993, the Ministry of Foreign Affairs and International Cooperation of Cambodia declared that the Royal Government of Cambodia considered itself bound by the Protocol of 17 June 1925, to which the coalition Government of Democratic Cambodia had acceded on 15 March 1983. This accession had been considered invalid by France (the depositary power) as well as by Australia, Bulgaria, Cuba, Czechoslovakia, Ethiopia, Hungary, Mauritius, Mongolia, Poland, the Soviet Union and Viet Nam. The 15 March 1983 instrument contained the following reservation: “The Coalition Government of Democratic Kampuchea (CGDK) reserves the right not to be bound by the aforesaid Protocol as regards any enemy whose armed forces or allies no longer respect the prohibitions contained in this Protocol”.

### China

On 13 July 1952, the People's Republic of China issued a statement recognizing as binding upon it the accession to the Protocol in the name of China. “The People's Republic of China considers itself bound by the Protocol on condition of reciprocity on the part of all the other contracting and acceding powers”.

### Fiji

In a declaration of succession of 26 January 1973 addressed to the depositary government, the government of Fiji confirmed that the provisions of the Protocol were applicable to it by virtue of the ratification by the United Kingdom. “The Protocol is only binding on Fiji as regards States which have both signed and ratified it and which will have finally acceded thereto. The Protocol shall cease to be binding on Fiji in regard to any enemy State whose armed forces or the armed forces of whose allies fail to respect the prohibitions which are the object of the Protocol”.

## **India**

“(1) The said Protocol is only binding on His Britannic Majesty as regards those States which have both signed and ratified it, or have finally acceded thereto. (2) The said Protocol shall cease to be binding on His Britannic Majesty towards any Power at enmity with Him whose armed forces, or the armed forces of whose allies, fail to respect the prohibitions laid down in the Protocol”.

## **Iraq**

“On condition that the Iraq government shall be bound by the provisions of the Protocol only towards those States which have both signed and ratified it or have acceded thereto, and that it shall not be bound by the Protocol towards any State at enmity with Iraq whose armed forces, or the forces of whose allies, do not respect the provisions of the Protocol”.

## **Israel**

The said Protocol is only binding on the State of Israel as regards States which have signed and ratified or acceded to it. The said Protocol shall cease ipso facto to be binding on the State of Israel as regards any enemy State whose armed forces, or the armed forces of whose allies, or the regular or irregular forces, or groups or individuals operating from its territory, fail to respect the prohibitions which are the object of this Protocol.

## **Jordan**

“Jordan undertakes to respect the obligations contained in the Protocol with regard to States which have undertaken similar commitments. It is not bound by the Protocol as regards States whose armed forces, regular or irregular, do not respect the provisions of the Protocol”.

## **Korea, Democratic People's Republic of**

“The said Protocol is only binding on the Government of the Democratic People's Republic of Korea as regards those States which have signed and ratified the Protocol or have acceded thereto. The said Protocol shall cease to be binding on the Government of the Democratic People's Republic of Korea in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol”.

## **Kuwait**

“In case of breach of the prohibition mentioned in this Protocol by any of the Parties, the State of Kuwait will not be bound, with regard to the Party committing the breach, to apply the provisions of this Protocol”.

## **Libya**

“The present Protocol is binding on the Libyan Arab Republic only as regards States which are effectively bound by it and will cease to be binding on the Libyan Arab Republic as regards States whose armed forces, or the armed forces of whose allies, fail to respect the prohibitions which are the object of this Protocol”.

## **Nigeria**

“The Protocol is only binding on Nigeria as regards States which are effectively bound by it and shall cease to be binding on Nigeria as regards States whose armed forces or whose allies' armed forces fail to respect the prohibitions which are the object of the Protocol”.

## **Papua New Guinea**

“The said Protocol is only binding on the Government of Papua New Guinea as regards those States which have signed and ratified the Protocol or have acceded thereto. The said Protocol shall cease to be binding on the Government of Papua New Guinea in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol”.

## **Republic of Korea**

The said Protocol is only binding on the Government of the Republic of Korea as regards those States which have signed and ratified the Protocol or have acceded thereto. The said Protocol shall cease to be binding on the Government of the Republic of Korea in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol.

Reservation withdrawn for biological methods of warfare in 2002.

## **Solomon Islands**

“The obligations stemming from the aforesaid Protocol shall be binding upon the Solomon Islands only in their relations with States which have ratified the Protocol or acceded to it and which respect its provisions”.

## **Thailand**

"Declares as binding ipso facto, without special agreement with respect to any other Member or State accepting and observing the same obligation, that is to say, on condition of reciprocity, [the Protocol]".

## **United States of America**

"The protocol shall cease to binding on the government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials, or devices, in regard to any enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol".

## **Viet Nam**

"The said Protocol is only binding on the Government of Viet Nam as regards those States which have signed and ratified the Protocol or have acceded thereto; The said Protocol shall cease to be binding on the Government of Viet Nam in regard to any enemy State whose armed forces, or the armed forces of whose Allies, fail to respect the prohibitions laid down in the Protocol".

## **Yugoslavia**

"The said Protocol shall cease to be binding on the government of the Serbs, Croats and Slovenes in regard to any enemy State whose armed forces or whose allies fail to respect the prohibitions which are the object of this Protocol".

[*Note:* although the legal relationship between the Yugoslavia that ratified the Geneva Protocol and the current state of Serbia is ambiguous, the latter claims to be a party to the Protocol by virtue of the former's deposit (submission by Serbia and Montenegro to the 1540 committee, as reproduced in UN doc. S/AC.44/2004/(02)/100/Add.1, dated 23 January 2006), but then deposited an instrument of succession with the Government of France on 3 June 2006.]

## **Withdrawn reservations**

States known to have withdrawn their reservations include: Australia, Belgium, Bulgaria, Canada, Chile, Czechoslovakia (as was), Estonia, France, Ireland, Mongolia, the Netherlands, New Zealand, Portugal, Romania, Russia, South Africa, Spain and the UK.

## **Implicit reservations**

Implicit reservations are those that derive from succession of states in circumstances where the predecessor state had a reservation at the time of independence. States with implicit reservations may have inherited them without realising the significance of them. Article 20.1 of the 1978 Vienna Convention on the Succession of States in Respect of Treaties is clear about reservations: "When a newly independent State establishes its status as a party or as a contracting State to a multilateral treaty by a notification of succession ... it shall be considered as maintaining any reservation to that treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates unless, when making the notification of succession, it expresses a contrary intention or formulates a reservation which relates to the same subject-matter as that reservation." This convention codifies what had been the established legal doctrine.

For example, Fiji and the Solomon Islands explicitly maintained the reservation derived from their succession from the United Kingdom, but Barbados, on succession, specifically notified the depositary that it would not be continuing with the UK-derived reservation.

Any state which decided to accede to the protocol rather than be considered a successor state would not be affected by any reservation made by the predecessor state.

Under the terms of the 1978 Vienna Convention on the Succession of States in Respect of Treaties, states that may be regarded as having remaining reservations include: Croatia, Cyprus, Gambia, Grenada, Indonesia, Jamaica, Lesotho, the Maldives, Malta, Mauritius, Niger, Pakistan, Rwanda, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Serbia, Slovenia, Tonga and Trinidad and Tobago.