OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT
NEW YORK, 25 MAY 2000

NETHERLANDS: OBJECTION TO THE INTERPRETATIVE DECLARATION MADE BY MYANMAR UPON RATIFICATION

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 23 September 2020.

(Original: English)

“The Government of the Kingdom of the Netherlands has carefully examined the interpretative declaration made by the Government of the Republic of the Union of Myanmar upon ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 27 September 2019, relating to Article 4 thereof.

The Government of the Kingdom of the Netherlands considers the first sentence of the interpretative declaration to be contrary to the terms of Article 4, paragraph 2, of the Optional Protocol, according to which States Parties commit themselves to ‘take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices’. This sentence is also contrary to the terms of Article 6 of the Optional Protocol, according to which States Parties ‘shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction’ as well as ‘all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service’.

The first sentence of the interpretative declaration made by the Government of the Republic of the Union of Myanmar implies that Myanmar would not be responsible for the recruitment of children under 18 years of age or their use in hostilities by non-state armed groups and that it has no obligation to address such recruitment and use. This is incompatible with the object and purpose of the Protocol and with Article 4, paragraph 2, and Article 6 thereof.

The Government of the Kingdom of the Netherlands therefore objects to the first sentence of the interpretative declaration of the Government of the Republic of the Union of Myanmar to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. This objection shall not preclude the entry into force of the Optional Protocol between the Kingdom of the Netherlands and the Government of the Republic of the Union of Myanmar.

1 Refer to depositary notification C.N.471.2019.TREATIES-IV.11.b of 27 September 2019 (Ratification: Myanmar).
The Government of the Kingdom of the Netherlands further understands the last sentence of the interpretative declaration made by the Government of the Republic of the Union of Myanmar to mean that all ethnic armed groups in the Republic of the Union of Myanmar also have a duty to apply at all times the principles governing international humanitarian law.”

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13 October 2020