



Strasbourg, 16 February 1998

CAHDI (98) 7

**COMMITTEE OF LEGAL ADVISERS**  
**ON PUBLIC INTERNATIONAL LAW**  
**(CAHDI)**

**15th meeting**

**(Strasbourg, 3-4 March 1998)**

**REQUEST OF THE UNITED STATES OF MEXICO**  
**FOR THE STATUS OF OBSERVER TO THE**  
**CAHDI**

Secretariat memorandum  
prepared by the  
Directorate of Legal Affairs

## **Foreword**

1. By letter dated 19 November 1997 to the Secretary General of the Council of Europe, the Permanent Representative of Mexico to the European Union, Mr. Armendáriz requested the status of observer to the CAHDI for the Government of Mexico (see Appendix 1).

2. In accordance with Article 5 of Resolution (76) 3 of the Committee of Ministers on Committee structures, terms of reference and working methods (see Appendix 2), the Secretariat initiated the specific procedure concerning admission of observers to intergovernmental committees and, by letter of 19 December 1997, the Deputy Director of Legal Affairs, informed member States of the Council of Europe about the Government of Mexico's request (see Appendix 3).

3. Following the relevant procedure, delegations were given four weeks to request that the issue be included in the agenda of the Committee of Ministers. As no delegation made such request, the item was included in the agenda of the 15th meeting of the CAHDI.

4. Article 5 of Resolution (76) 3, establishes that the decision [by the CAHDI] to grant the status of observer must then be taken by unanimity.

5. The Committee of Ministers addressed two specific messages to Steering Committees and Ad Hoc Committees of experts concerning admission of observers at their 347th and 420th meeting held in Strasbourg respectively in May 1982 and October 1988 (see Appendices 4 and 5).

6. According to these messages, it should be noted that states can be granted observer status:

- for the whole duration of the Committee,
- for a given period,
- for a single meeting,
- for a specific activity,
- for a specific item on the agenda.

7. When deciding on granting the observer status, the Committees should consider three essential criteria:

- the participation of the observer must be in the interest of the Committee (message adopted at the 347th meeting, para. 3 a)
- the participation of the observer must not hinder the work of the Committee (message adopted at the 347th meeting, para. 3 b)
- the need to ensure the efficient work of the Committee (message adopted at the 420th meeting, para. 3)

8. According to the message of the Committee of Ministers adopted at the 347th meeting, para. 3, the nature of the work of the Committee should be considered while assessing the above-mentioned criteria. Other elements to be considered are set out in the message adopted at the 420th meeting, para. 5 and include:

- a. the nature of the requester: a non-member State,
- b. the origin of the request: the Permanent Representative of Mexico to the European Union,
- c. the nature of the Committee in question,
- d. the list of committees to which the requester has been admitted: so far Mexico participates regularly in the Multidisciplinary Group on Corruption (GMC) and has participated in specific meetings of the Commission for Democracy through Law (Venice Commission) and in the 21st European Conference of the Ministers of Justice, held in Prague, 10-11 June 1997; in addition, Mexico has simultaneously requested observer status in three other steering committees, namely: Committee on Higher Education and Research, Committee on Culture, European Committee for Criminal Problems (CDPC),
- e. list of observers already admitted to the Committee (see 9 below) and
- f. opinion of the Secretary General.

9. At present, as it results from the terms of reference of the CAHDI (see Appendix 6) the following States and international organisations have the status of observer to the CAHDI:

- The Commission of the European Communities,
- The Hague Conference on Private International Law,
- Organisation for Economic Co-operation and Development,
- North Atlantic Treaty Organisation,
- Armenia,
- Australia,
- Azerbaijan,
- Canada,
- Holy See,
- Japan,
- New Zealand,
- United States of America.

### **Action required**

Members of the CAHDI are called upon to decide whether Mexico should be granted observer status to the CAHDI, in the affirmative, what kind of observer status as stated in Appendix 6.

**Appendix 1**

**Request of the Government of Mexico for status of observer to the CAHDI  
(French only)**

**Appendix 2**

**Resolution (76) 3 of the Committee of Ministers on Committee structures, terms of reference and working methods**

**Article 5 - Observers**

Any steering committee may, by a unanimous decision, admit or admit to any committee answerable to it, observers from non-member states of the Council of Europe, or from intergovernmental or non-governmental international organisations, provided that :

- i. Any request for admission as an observer shall be forwarded without delay by the Secretary General both to the Permanent Representatives of member states and to the members of the steering committee concerned.
- ii. Any government so notified may inform the Secretary General within four weeks of its intention to refer the matter to the Committee of Ministers for decision. This decision shall be taken by a two-thirds majority of all the Representatives entitled to sit on the Committee.

**Appendix 3**

Strasbourg, 19 December 1997

[name]

In accordance with article 5, para. i) of Resolution (76) 3 of the Committee of Ministers on Committee structures, terms of reference and working methods, I would like to inform you that the Government of Mexico has requested the status of observer to the Ad Hoc Committee of Legal Advisers on International Public Law (CAHDI) by letter dated 19 November 1997 of Ambassador Armendáriz (copy is enclosed).

I would also like to bring you attention to article 5, para. ii) of Resolution (76) 3 which states that "Any government so notified may inform the Secretary General within four weeks of its intention to refer the matter to the Committee of Ministers for decision".

Therefore, if such a request is not made before 19 January 1998, this item will be included in the agenda for the next meeting of the CAHDI scheduled 3-4 March 1998. Article 5, para. 1 of Resolution (76) 3, establishes that the decision by the CAHDI to grant the status of observer must then be taken by unanimity.

M. Rafael A. BENITEZ, Secretary of the CAHDI (Tel.: 33 3 88 41 34 79, Fax: 33 3 88 41 27 64, E-mail: rafael.benitez@daj.coe.fr), remains at your disposal for any further information you may require.

Yours faithfully,

Marie-Odile WIEDERKEHR  
Deputy Director of Legal Affairs

1 attachment

Copies: Members of the CAHDI

**Appendix 4**

Message 347

**Appendix 5**

Message 420





## Appendix 6

### SPECIFIC TERMS OF REFERENCE

1. Name of committee: COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)
2. Type of committee: Ad hoc committee of experts
3. Source of terms of reference: Committee of Ministers
4. Terms of reference:

Under the authority of the Committee of Ministers, the Committee is instructed to exchange views and to examine questions of public international law, at the request of the Committee of Ministers, the European Committee on Legal Co-operation (CDCJ) and at its own initiative.

5. Membership of the Committee:

- a. The Committee is composed of experts by member States, preferably chosen among the Legal Advisers to the Ministries of Foreign Affairs. Travel and subsistence expenses of one expert per member State (two for the State assuming the Chair of the Committee) are borne by the Council of Europe budget.
- b. The European Commission may send representatives, without the right to vote or to a refund of expenses, to meetings of the Committee.
- c. The following States having observer status with the Council of Europe may send a representative without the right to vote or to a refund of expenses to meetings of the Committee: Canada, Japan, United States of America.
- d. The following non-member States or organisations may send a representative, without the right to vote or to a refund of expenses\*, to meetings of the Committee:

     The Holy See  
    \* Armenia (1)  
    \* Azerbaijan (1)  
    Australia  
    \* Bosnia and Herzegovina (2)  
    \* Georgia (2)  
    New Zealand  
    The Hague Conference on Private International Law  
    NATO (3)  
    The Organisation for Economic Co-operation and Development

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\* Except in the case of special provisions application to States marked with \*

6. Structures and working methods:

7. Duration:

The present terms of reference will expire on 31\_December\_1998.

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Adopted: see CM/Del/Concl(91)455/24, Appendix 5

Revised: (1) see CM/Del/Dec(96)557, item 2.1  
(2) subject to their request  
(3) see CM/Del/Dec/Act(93)488/29  
see also CM/Del/Concl(92)480/3