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AD HOC COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
(CAHDI)

18th Meeting
Paris, 7- 8 September 1999

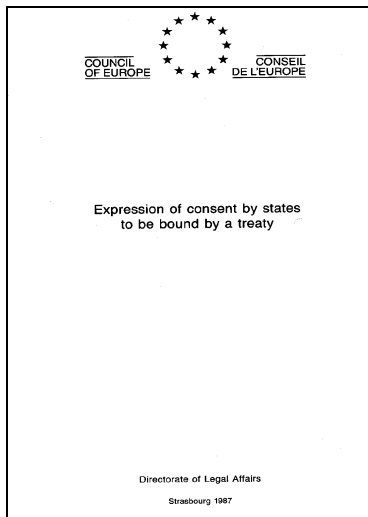
STATE OF DEVELOPMENT OF THE ACTIVITY EXPRESSION OF CONSENT BY
STATES TO BE BOUND BY A TREATY

Secretariat memorandum
Prepared by the Directorate of Legal Affairs

Foreword

1. At its 17th meeting (Vienna, *Hofburg*, 8-9 March 1999) the CAHDI agreed to updating a report prepared in 1986 by the Committee of Experts on Public International Law (CJ-DI) - predecessor of the CAHDI on the means by which States consent to be bound by a treaty and national procedures relating thereto on the basis of the attached questionnaire.

2. This report, published by the Council of Europe in 1987 was distributed at the last meeting of the CAHDI (document CAHDI (99) 8) and can be obtained from the Secretariat upon request.



3. Delegations and observers were invited to submit replies before 31 December 1999 in writing (English or French, together with a computer version).

4. The table hereafter contains the state of replies in 1986 and up to date.

Action required

Delegations and observers not having done so are invited to reply to the attached questionnaire as soon as possible. If they provided a reply in 1986 and they consider it still to be valid, they should indicate it expressly to the Secretariat so that their replies can be included in the new publication.

Countries (replied)	1986	1999
Albania		
Andorra		
Austria	•	•
Belgium	•	
Bulgaria		
Croatia		
Cyprus	•	
Czech Republic		
Denmark	•	
Estonia		
Finland		
France	•	
Georgia		
Germany	•	
Greece	•	
Hungary		
Iceland	•	
Ireland	•	•
Italy	•	
Latvia		
Liechtenstein		
Lithuania		
Luxembourg	•	
Malta		
Moldova		
Netherlands	•	
Norway	•	
Poland		
Portugal	•	
Romania		
Russian Federation		
San Marino		
Slovak Republic		
Slovenia		
Spain	•	•
Sweden	•	•
Switzerland	•	
"F.Y.R.O.M."		
Turkey	•	
Ukraine		
United Kingdom	•	•
Canada	•	
Holy See		
Japan		
U.S.A.	•	
Mexico		
Israel		•
Armenia		
Azerbaijan		
Bosnia and Herzegovina		
Australia	•	
New Zealand		

APPENDIX I

QUESTIONNAIRE ON THE MEANS BY WHICH STATES EXPRESS THEIR CONSENT TO BE BOUND BY A TREATY AND NATIONAL PROCEDURES RELATING THERETO

1. Which authority, in your country, is vested with the treaty making power ?
2. Which authority is competent to authorise negotiations and according to which procedure is the authorisation given ?
3. Does the legal system of your country draw a distinction between signature not subject to ratification, signature subject to ratification, acceptance or approval ?
 - a) If not, please describe the procedure followed in your country to express the consent of your State to be bound by a treaty and reply also to questions 7, 9 to 11, 12 (*mutatis mutandis*) and 13 to 15.
 - b) If the answer is yes, please reply to questions 4 and following.
4. In what cases and under what conditions is signature not subject to ratification, acceptance or approval, possible ?
5. In what cases is signature subject to ratification required ?
6. In what cases and under what conditions is acceptance or approval possible ? Are they preceded by signature ?
7. In each of the situations mentioned under 3 a), 4, 5 and 6, please describe the steps which must be followed leading to the decision to bind the State. In particular, must the authority taking the decision consult other authorities (if so, which ones ?) or professional or other interested groups ?
8. When ratification is necessary, please specify :
 - a) Which authority is competent to ratify ?
 - b) Must it have prior authorisation to ratify ? If so, who gives such authorisation and what form does it take ?
 - c) In cases when a prior authorisation is required, must it be applied for within a certain deadline ? Must the decision of the authorising authority be taken within a certain deadline ? If this deadline is passed without a decision, what is the consequence ?
 - d) Once authorisation to ratify is granted, must the authorised authority proceed to ratification within a given deadline ? Could it refrain from ratifying indefinitely ?
9. In case of accession to a treaty, are there any other procedures not described above which are followed ?
10. Which authority decides whether :
 - a) reservations should be made ?
 - b) reservations should be withdrawn ?
 - c) objections should be presented to reservations made by other States ?
11. Do treaties to which your country is a Party become incorporated into your country's domestic law ?
12. If so, does the incorporation happen by reason of (and at the time of) the signature not

subject to ratification, the ratification, acceptance, approval or accession, or is a separate act of legislative or administrative nature necessary ?

13. What is the legal status of a treaty incorporated into the domestic law of your country ?
14. Does signature of a treaty by your country indicate a firm intention to ratify it ?
15. Is the provisional application of a treaty before its entry into force possible in your legal system and under what conditions ?