



Strasbourg, 15/03/2000

CAHDI (99) 23 rev

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

**18th meeting  
Strasbourg, 7 and 8 September 1999**

**MEETING REPORT**

Secretariat Memorandum  
prepared by the Directorate of Legal Affairs

## **A. INTRODUCTION**

### **1. Opening of the meeting**

1. The ad hoc Committee of Legal Advisers on Public International Law (CAHDI) held its 18th meeting in Strasbourg on 7 and 8 September 1999. The meeting was chaired by Ambassador R. Hilger (Germany), Chairman of the CAHDI. The list of participants appears in Appendix I.

### **2. Adoption of the agenda**

2. The Chairman referred to the draft agenda. The agenda was adopted as it appears in Appendix II. In addition, the Chairman referred to the invitation of the Permanent Representative of Germany to the Council of Europe to the members of the CAHDI to attend a reception on the occasion of the meeting of the Committee.

### **3. Communication by the Secretariat**

2. Mr Guy De Vel, Director General of Legal Affairs, addressed the Committee on behalf of the Secretary General of the Council of Europe. He expressed his regret at not having been able to take part in the 17th meeting of the CAHDI at the *Hofburg* in Vienna in March as he would have liked, and, on behalf of the Secretary General, he thanked the Austrian authorities, and in particular Ambassador CEDE, for the work they had done to organise this meeting and the one that preceded it concerned with reservations to international treaties.

3. He noted that the reinforcement and consolidation of the fundamental role of the CAHDI within the intergovernmental structure of the Council of Europe had now been achieved. While the CAHDI had had to add half a day to its last meeting Vienna because of the very full agenda, the 18th meeting of the Committee was no less important. Furthermore, the participation of the President of the European Court of Human Rights, Mr Wildhaber, in the morning session, and of the new Secretary General of the Council of Europe, Mr Walter Schwimmer, in the afternoon session, reflected the interest aroused by the CAHDI and its activities.

4. There had been important developments since the last meeting of the Committee in March. The Council of Europe had expanded and since April had a 41st member: Georgia. He recalled that Armenia, Azerbaijan, Belarus, Monaco and Bosnia and Herzegovina were candidates for membership and the Parliamentary Assembly would examine these applications in due course.

5. Three countries at present enjoyed the status of Special Guest to the Parliamentary Assembly: Armenia, Azerbaijan and Bosnia and Herzegovina, the status for Belarus at present being suspended. In addition, Canada and Israel had the status of observer to the Assembly.

6. Three countries had the status of observer to the Council of Europe: Canada, the United States of America and Japan. A similar status was granted to the Holy See, which participated in the Organisation's intergovernmental activities. Similarly, Mexico had requested the granting of the status of observer to the Council of Europe, and the Committee of Ministers would shortly be giving its decision on this request after receiving the opinion of the Parliamentary Assembly<sup>1</sup>. The Committee of Ministers had also set the criteria for the granting of observer status in the future.

7. This year the Council of Europe celebrated the 50th anniversary of its foundation. Solemn ceremonies had been held in the United Kingdom and in Hungary on 5 and 6 May

---

<sup>1</sup> By the time this report was prepared, the Committee of Ministers had granted Mexico the status of permanent observer to the Council of Europe.

with the participation of Her Majesty Queen Elisabeth II and the President of Hungary, Mr Göncz. Mr De Vel congratulated the British and Hungarian authorities on the organisation of these important commemorations.

8. Since 1 September the Council of Europe had a new Secretary General, Mr Walter Schwimmer, who was the 11th Secretary General since the creation of the Organisation. The CAHDI was the first intergovernmental Committee in which the Secretary General was participating since his election, which bore witness to his interest in activities in the legal field.

9. There had been developments concerning the Secretariat structures. At its 104th session in Budapest, on 6 and 7 May, the Committee of Ministers had approved a declaration entitled *For a Greater Europe without Dividing Lines* as well as a report on the reform of the structures of the Council of Europe. Important changes were thus in view as a result of the recommendations of the Committee of Wise Persons' report which had been much discussed in the past.

10. The Committee of Ministers and the Parliamentary Assembly were continuing to monitor the honouring of obligations and commitments entered into by member States since their accession to the Council of Europe. This monitoring at present concerned the death penalty and the functioning of the police.

11. In this context, Mr De Vel also mentioned the co-operation programmes for the consolidation of democracy and security (ADACS) which constituted a fundamental pillar of the Organisation's action. For some months the Council of Europe's action had been concentrated on Kosovo. At the request of the United Nations Special Representative for Kosovo, Mr Bernard Kouchner, Head of the United Nations Mission for Kosovo (UNMIK), the Council of Europe was examining questions connected with the law applicable and property law, in co-operation with the United Nations. In addition, in co-operation with the OSCE, the Council of Europe had been invited to examine the situation of the judiciary and in particular to make proposals for candidates to fill the judges' posts.

12. In addition, at its 104e session à Budapest, the Committee of Ministers had adopted Resolution (99) 50 instituting the office of Council of Europe Commissioner for Human Rights. This post would shortly be filled through election by the Parliamentary Assembly<sup>2</sup>.

13. As for recent developments concerning the European Treaty Series since the last meeting of the CAHDI, he noted that in the field of human rights, the Convention for the protection of Human Rights and Fundamental Freedoms (ETS 5), whose 50th anniversary would be celebrated next year, and its protocols had been signed and ratified by Georgia on the occasion of its accession the Council of Europe. Its protocol n°6 concerning the abolition of the death penalty (1983) (ETS 114) had been signed by Bulgaria and Cyprus in May, Georgia in June, and ratified by Latvia and the United Kingdom in May and by Lithuania in July.

14. In the field of bioethics the Convention for the protection of human rights and dignity of the human being with regard to the application of biology and medicine: Convention on human rights and biomedicine (1997) (ETS 164) had been signed by Croatia, Hungary, Poland and Switzerland in May and ratified by Denmark in August and by Spain in September. This convention would enter into force on 1 December 1999. Its additional protocol on the Prohibition of Cloning Human Beings (1998) (ETS 168), had been signed by Croatia, Hungary, Poland and Switzerland in May.

15. Regarding the activities in the field of the fight against corruption carried on by the Group of States against Corruption (GRECO), a Partial and Enlarged Agreement (i.e. open to member States and non-members on an equal footing) aimed at combating corruption in

---

<sup>2</sup> By the time this report was prepared, the Assembly had proceeded to the election of Mr Alvaro Gil Robles (Spain) to the post Commissioner for Human Rights.

all its forms, had entered into force, the necessary 14 accessions of member States having been easily reached. In addition, the Criminal Law Convention on Corruption (1999) (ETS 173) opened for signature in January, had been signed by 7 States: Belgium, Hungary, Ireland, Moldova, Portugal, Slovenia, the "the former Yugoslav Republic of Macedonia" and France, which increased the total number of signatures to 29. As for the Civil Law Convention on Corruption, this would be examined by the Committee of Ministers on 8 and 9 September, and opened for signature in November at the ministerial meeting of the Committee of Ministers.

16. The consolidation of the role of the CAHDI was seen in the internal dynamism of the Committee, which led to concrete results including the report on the Council of Europe Pilot Project and the recently adopted Committee of Ministers Recommendation No. (99) 13 *on responses to inadmissible reservations to international treaties* which were evidence of this. This dynamism was also evident in the constant enlargement of the Committee and Mr De Vel particularly welcomed the presence of Ambassador Baker, Legal Adviser to the Ministry of Foreign Affairs of Israel, this country having been admitted as observer following its request and the Committee's decision, confirmed by the Committee of Ministers. He thanked Ambassador Baker for the organisation at the beginning of June of an information seminar on the Council of Europe in Jerusalem, which had aroused lively interest.

17. In accordance with the CAHDI's wishes, the report on the Council of Europe Pilot Project on State practice relating to State succession and issues of recognition, prepared under the aegis of the CAHDI by prestigious institutes, would be presented to the Secretary General at this meeting. Together with recommendation No. (99) 13 cited above, this would complete in concrete fashion the Council of Europe's contribution to the United Nations Decade of International Law. The Council of Europe had already contributed two other Committee of Ministers Recommendations, Nos. R (97) 10 and 11, that the CAHDI had prepared.

18. At the beginning of June, the Conference of European Ministers of Justice was held in Chisinau on the theme of the independence of the judiciary. The ministers had adopted a particularly important resolution on this subject. They had adopted a second resolution on the contribution of the Council of Europe to stability in South-East Europe.

19. Mr De Vel concluded his intervention by expressing his certainty that, under the chairmanship of Ambassador Hilger and thanks to the expertise of its members, the CAHDI would pursue its excellent work, taking advantage of its privileged position as the only forum where the legal advisers of Ministers of Foreign Affairs of the members States of the Council of Europe and a considerable number of States and international organisations, observers to the Committee, could exchange and, where appropriate, co-ordinate their views in the field of public international law, thus contributing to its application and development. The Secretariat would continue to do its best assist the CAHDI in these important tasks.

## **B. ONGOING ACTIVITIES OF THE CAHDI**

### **4. Communication of the President of the European Court of Human Rights (ECHR), Mr Wildhaber, exchange of views with the members of the CAHDI and visit to the ECHR**

20. The Chairman of the CAHDI welcomed the President of the ECHR, Mr Wildhaber, the judges, Mr Cafilisch, Mr Ferrari Bravo, Mr Pastor Ridruejo and the Clerk, Mr De Salvia.

21. Mr Wildhaber presented a report on developments concerning the coming into operation of the new European Court of Human Rights following the entry into force of Protocol 11 to the European Convention on Human Rights and Fundamental Freedoms<sup>3</sup>.

---

<sup>3</sup> For additional information concerning the ECHR, consult the Human Rights site of the Council of Europe [www.dhdirhr.coe.fr/](http://www.dhdirhr.coe.fr/) (in French and English).

22. He spoke of the cases pending before the ECHR following the entry into force of Protocol 11 mentioned above, as well as those which had been inherited from the old Court. Since then 62 decisions had been handed down by the ECHR, most of them by the *Grand Chamber*. He had noted a rapid increase in the number of applications, in particular coming from the countries of central and eastern Europe, including over 500 concerning the Russian Federation and over 300 concerning Ukraine.

23. He observed that the Secretariat of the Court devoted between 20 and 25% of its time to cases that had been pending before the old European Commission of Human Rights. At the time of negotiating Protocol n° 11 nobody had been able to anticipate the real implications of the functioning of a full-time Court.

24. In addition, he referred to the problems connected with the independence of the personnel in the service of the ECHR, which had led to the setting up of a Working Group to examine this question and also the methods of work of the ECHR.

25. The President of the ECHR evoked certain very important recent cases and concluded his intervention by saying that it was fascinating work.

26. The Chairman of the CAHDI thanked Mr Wildhaber for his statement and pointed out that, unlike other courts and tribunals which were looking for cases, the ECHR was confronted by an increasing number of applications, which gave rise to organisational problems. Given the importance of human rights, it would be regrettable if these organisation problems resulted in long delays in the handing down of judgements by the ECHR.

27. The presentation by the President of the ECHR was following by an exchange of views with members of the Committee concerning in particular:

- Requests for the transfer of cases from another chamber to the Grand Chamber,
- The possibility of introducing a filtering procedure for cases in order to relieve the ECHR of a large number of applications,
- Friendly settlement before the ECHR, hitherto reserved to the Secretariat of the European Commission of Human Rights,
- The compatibility of ECHR standards with those of other bodies competent to take decisions in the field of human rights, for example those set up by the United Nations,
- The implications that the adoption of a new protocol concerning discrimination would have on the workload of the ECHR and
- The importance of efficient management of the ECHR's resources.

28. One delegation wondered about the role of the ECHR concerning the respect of human rights in the context of the European Union and in particular the implications for the ECHR of the possible accession of the European Union to the European Convention on Human Rights (the Convention). The President of the ECHR said that there would not be any particular changes resulting from the European Union's accession to the Convention, the main thing being that there should not be any double standards. It would therefore not be desirable that the Court of Justice of the European Communities should examine cases on the basis of the European Convention of Human Rights.

29. Another delegation referred to the oral hearings before the ECHR which should be the rule rather than the exception in proceedings before the ECHR, but practice showed that this was not the case. The President of the ECHR stated that the oral hearings were extremely expensive (and could cost as much as 70,000 FF) and that it was essential to reconcile the transparency and visibility of the action of the ECHR with efficiency.

30. The Chairman of the CAHDI and the President of the ECHR agreed on the usefulness of the exchange of views and on the value of repeating this exercise in the future.

31. The exchange of views was following by a guided tour of the ECHR premises, led by President Wildhaber, and a reception.

## **5. Decisions of the Committee of Ministers concerning the CAHDI**

32. The Secretariat informed the Committee of the decisions concerning the CAHDI taken by the Committee of Ministers at its 670th meeting of the Deputies (Strasbourg, 18 May 1999), in particular the adoption of Recommendation No. (99) 13 *on responses to inadmissible reservations to international treaties* and the follow-up to the opinion of the CAHDI on Recommendation 1382 (1998) of the Parliamentary Assembly relative to drawing up a European Code of Conduct on Arms Sales, in accordance with the terms of reference received from the Committee of Ministers.

## **6. The law and practice relating to reservations to treaties and interpretative declarations concerning international treaties<sup>4</sup>:**

### **a. 2nd meeting of the Group of Experts on Reservations to International Treaties (DI-E-RIT), Strasbourg, 6 September 1999**

33. Ambassador Cede (Austria), Chairman of the Group of Experts on Reservations to International Treaties (DI-E-RIT) informed the CAHDI about the second meeting of the Group which was held on 6 September 1999.

34. Seventeen Member States had participated and also the Representatives of four observer States.

35. Following the adoption by the Committee of Ministers of Recommendation No. (99) 13 *on responses to inadmissible reservations to international treaties*, the Group had examined a draft *Practical guide to reservations to international treaties*<sup>5</sup> prepared by the Netherlands delegation. The Group thanked the Netherlands delegate for this document which had been unanimously considered an important practical contribution to the Council of Europe's work in the field of reservations to international treaties. It then decided to make certain changes to it and to return to the examination of the text at its next meeting<sup>6</sup>. In addition, the Group decided to recommend to the CAHDI the adoption of this text and its publication with the recommendation mentioned above as a contribution to the ongoing work of the United Nations International Law Commission (ILC).

36. The Group then examined the ILC activity on reservations to multilateral normative treaties, including treaties on human rights, in particular the developments at the 51st session of the ILC<sup>7</sup>.

37. In the context of the CAHDI's activity as European Observatory of reservations to international treaties, the Group examined a list of reservations and interpretative declarations susceptible to objection which was the subject of document CAHDI (99) 7.

38. The Group agreed on the fact that some of these reservations and interpretative declarations gave rise to doubts as to their admissibility, in particular the reservations of Venezuela to the United Nations Convention on privileges and immunities (13 February 1946), of Saint-Vincent and the Grenadines to the Convention relating to the status of stateless persons (New York, 28 September 1954), and of Guyana to the Optional Protocol to the International Covenant on Civil and Political Rights (New York, 16 December 1966).

<sup>4</sup> The list of documents examined by the DI-E-RIT since the implementation of this activity appears in document DI-E-RIT (99) list docs.

<sup>5</sup> Document CAHDI (99) 3, "Key issues regarding reservations at the various stages of the process of concluding treaties (negotiation, signature and ratification) and post-ratification stage".

<sup>6</sup> See point 17 below.

<sup>7</sup> See documents CAHDI (99) Inf. 3 et 4 (in English only). By the time this report was prepared, the final report of the 51st session of the CDI was available on the Internet : [www.un.org/law/ilc/sessions/51/51sess.htm](http://www.un.org/law/ilc/sessions/51/51sess.htm).

39. In addition, the Group had been informed of the reasons for the reservation of the Netherlands on behalf of Netherlands Antilles and Aruba to the United Nations Convention against Illicit Traffic in Narcotic drugs and Psychotropic Substances (Vienna, 20 December 1998) and Mexico's reservation to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (New York, 18 December 1990).

40. Similarly, the Group had been informed of the dialogue which had been held with Azerbaijan concerning this country's reservation to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (New York, 15 December 1989).

41. In the absence of the delegations of Portugal and Liechtenstein, the Group proposed to the CAHDI to obtain information on the reasons for the formulation of reservations by Portugal and Liechtenstein to respectively the United Nations Convention on privileges and immunities (13 February 1946) and the International Covenant on Civil and Political Rights (New York, 16 December 1966) (see point c) below).

42. The Group also examined the reservations liable to objection to the Conventions of the Council of Europe.

43. In addition, the Chairman submitted a document of the United Nations Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities concerning reservations to human rights treaties<sup>8</sup>.

44. The Group concluded its meeting by unanimously agreeing to propose to the CAHDI to pursue the activity on reservations to international treaties and also proposed to the CAHDI the adoption and transmission to the Committee of Ministers, for approval, of a draft specific mandate of the DI-E-RIT for the year 2000 insofar as this activity was a unique exercise for the benefit of Council of Europe Member States and observers.

**b. Key issues concerning the formulation of reservations to international treaties**

45. The CAHDI will return to the examination of this question at the next meeting of the CAHDI (see point b) above).

46. Several delegations evoked the role of the depositary (see point 10 below).

**c. European Observatory of reservations to international treaties**

47. In the framework of an informal dialogue, the CAHDI was informed by the delegations of Portugal and Liechtenstein of the reasons behind the formulation of their reservations to respectively the United Nations Convention on privileges and immunities (13 February 1946) and the International Covenant on Civil and Political Rights (New York, 16 December 1966).

48. The Portuguese delegate stated that his country's reservation to the United Nations Convention on privileges and immunities (13 February 1946) concerned only United Nations staff who had Portuguese nationality or were permanent residents of Portugal before entering the service of the United Nations. It was explained by concern for fiscal justice and it was a standard declaration made by Portugal in all similar cases.

49. The Liechtenstein delegate referred to his country's declaration concerning certain articles of the International Covenant on Civil and Political Rights (New York, 16 December 1966). With respect to 14.1 of the Covenant, he explained that in Liechtenstein certain proceedings were not public, in particular those concerning minors suspected of offences and

---

<sup>8</sup> *Review of Further Developments in fields with which the sub-commission has been or may be concerned, Reservations to human rights treaties, Working paper submitted by Ms Françoise Hampson pursuant to Sub-Commission decision 1998/113. Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. Document E/CN.4/Sub.2/1999/28, 28 June 1999.*

proceedings concerning offences of a sexual nature. With respect to article 17.1, he pointed out that one third of the inhabitants of the Principality were foreigners and that his government was at present working on the definition of an appropriate framework for immigration. Regarding article 20, the declaration resulted from the national criminal legislation. Lastly, the declarations concerning articles 24.3 and 26 resulted from the requirements set out in the national legislation for obtaining the nationality of this country.

50. The Chairman thanked the delegates of Portugal and Liechtenstein for having kindly provided information concerning their reservations and declarations and stressed the usefulness of dialogue between States concerning the formulation of reservations, while asserting that States remained free to formulate reservations and to make objections, in the respect of the rules of the international law.

51. The Secretariat informed the members of the CAHDI of the interest that the United Nations International Law Commission showed in the subject of dialogue. In this connection, the ILC had invited the CAHDI to provide concrete examples of this dialogue<sup>9</sup>.

52. The CAHDI then discussed the practice of dialogue in depth. The French delegate observed that although the principle of dialogue was accepted, it should not imply a modification of the practice of the Vienna Convention on the Law of Treaties (VC) and it was by no means obligatory, reservations and objections being by definition unilateral acts.

53. The Finnish delegate noted that the VC contained the prohibition of certain types of reservations but did not provide any means for dealing with them. Dialogue made it possible to fill this gap. For this reason, before making a formal objection to a reservation, it was useful to understand the reasons justifying a State's reservation.

54. The delegate of the Slovak Republic observed that the formulation of reservations permitted States to reach compromises which made it possible to achieve the aims pursued. It was therefore essential to pay particular attention to the formulation of reservations in the negotiation stage of the treaty, because in-depth discussion at this stage could make it possible to avoid the *a posteriori* formulation of reservations.

55. The Israeli observer pointed out that the formulation of a reservation was a complex phenomenon and that dialogue permitted a better understanding of the reasons which impelled a State to formulate a reservation. It was therefore useful and fair because the formulation of reservations had serious consequences. Any State should be able to obtain information on the reasons behind a reservation.

56. The Chairman concluded that reservations and objections were, by their very nature, unilateral acts, and that dialogue did nothing to change this nature and, furthermore, in accordance with international law, it was in no way obligatory.

#### **d. Draft specific terms of reference of the DI-E-RIT for the year 2000**

57. On the proposal of the DI-E-RIT (see point 6.a. above), the CAHDI agreed to pursue the activity on reservations to international treaties, which had given very satisfactory results. It therefore approved the draft specific terms of reference for the DI-E-RIT for the year 2000 and, following the departure of Ambassador Cede, appointed Ambassador Magnuson (Sweden) co-ordinator of the Group (see Appendix III).

58. Mr Magnuson thanked the CAHDI for the confidence shown by its appointing him co-ordinator of the DI-E-RIT and said he would have a difficult task in following the exemplary manner in which Mr Cede had directed the work of this Committee. He pointed out that there were several issues that work of the DI-E-RIT should be concerned with, in particular the activity of the CAHDI as European Observatory of reservations to international treaties, the

---

<sup>9</sup> To date, the Secretariat of the CAHDI has provided the Secretariat of the ILC with examples of dialogue with States that have formulated reservations brought by the delegations of Germany, Austria, Finland and Sweden. These contributions may be obtained from the Secretariat on demand.



document prepared by the Netherlands delegation (see point 6.b above), the effects of the modification of reservations, etc.

## **7. Consideration of conventions under the responsibility of the CAHDI: Examination of the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (ETS 63)**

59. The CAHDI examined the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (N° 63 in the European Treaty Series) on the basis of the document prepared by the Secretariat<sup>10</sup>.

60. The Chairman stated that this Convention had entered into force on 14 August 1970. It had been ratified by 19 States: Austria, Cyprus, Czech Republic, France, Federal Republic of Germany, Greece, Ireland, Italy, Liechtenstein (accession), Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom. In addition, it had been signed by Malta.

61. The CAHDI concluded this item of the agenda by stressing the value of pursuing this exercise and decided to examine the European Convention on Consular Functions and its Protocols concerning the Protection of Refugees and relating to Consular Functions in respect of Civil Aircraft (ETS 61, a and b) at its next meeting on the basis of documents that the Secretariat was invited to prepare.

## **8. Expression of consent by States to be bound by a treaty**

62. The Chairman referred to the document prepared by the Secretariat concerning the replies received in connection with the updating of the report on consent by States to be bound by a Treaty<sup>11</sup>. He invited all delegations that had not yet done so to submit their contributions to the Secretariat.

63. The Secretariat informed the members of the CAHDI that an updated compilation of the replies received would be submitted at the next meeting of the CAHDI, as well as concrete proposals as to the follow-up.

## **9. Presentation of the report to the Secretary General of the Council of Europe**

64. The Chairman of the CAHDI presented to the Secretary General of the Council of Europe, Mr Schwimmer, the report entitled *State Practice Regarding State Succession and Issues of Recognition*<sup>12</sup> concerned with the Council of Europe Pilot Project on this subject. This report had been prepared under the aegis of the CAHDI by the T.M.C. Asser Institute (Dr Olivier Ribbelink), the Max-Planck Institute for Comparative Public Law and International Law (Dr Andreas Zimmermann) and the Erik Castren Institute of International Law and Human Rights (Profs. Martti Koskenniemi and Jan Klabbers)<sup>13</sup>.

65. Mr Klabbers, Mr Ribbelink and Mr Zimmermann, authors of the report, participated in the presentation, and Mr Ribbelink outlined the content of the report.

66. The Secretary General thanked the CAHDI and the authors of the report for this excellent work, which would complete the Council of Europe's contribution to the United Nations Decade of International Law and concluded his intervention by stressing the particular

---

<sup>10</sup> See document CAHDI (99) 16. For an overview of the legal texts under the responsibility of the CAHDI see document CAHDI (99) 4.

<sup>11</sup> See document CAHDI (99) 21.

<sup>12</sup> *State Practice Regarding State Succession and Issues of Recognition/Pratique des états concernant la succession d'états et les questions de reconnaissance*, co-published in English and French by *Kluwer Law International, The Hague* and the Council of Europe, August 1999, 528 pages (ISBN 90-411-1203-0). Information available from *Kluwer International Law*, <http://www.kluwerlaw.com>, or [sales@kluwerlaw.com](mailto:sales@kluwerlaw.com) or from the Council of Europe Secretariat [cahdi@coe.int](mailto:cahdi@coe.int).

<sup>13</sup> See document CAHDI (98) 13.

importance he attached to the activities of the CAHDI and the Secretariat's desire to do everything possible to help the Committee pursue its magnificent work.

67. The Secretariat read a message from Mr Hans Correll, United Nations Under-Secretary General addressed to the CAHDI for this occasion<sup>14</sup>.

### **C. GENERAL ISSUES OF INTERNATIONAL PUBLIC LAW**

#### **10. Depositories of treaties**

68. The Turkish delegate referred to the role of depository as mentioned under point b) above. She pointed out that the depository did not have the power stipulated under point 8) of document DI-E-RIT (99) 5 which would be examined at the next meeting of the DI-E-RIT<sup>15</sup>.

69. Similarly, the French delegate pointed out that the practice of the United Nations Secretary General concerning in particular the period of 90 days that States Parties to a convention had in which to object to a modification to a reservation did not encourage countries to grant the depository an increased role.

70. In this connection the Chairman informed the Committee that the German delegation had started a dialogue with the United Nations Secretariat General concerning the new practice of the depository, in particular regarding the 90-day period mentioned above. Concerning the role of the depository, he said that there had been a thorough discussion at the meeting of the DI-E-RIT which preceded the meeting of the CAHDI<sup>16</sup>. Certain delegations had considered that the depository had a completely neutral role. In particular for the States which were depositories of certain conventions, it would not be desirable to see them attributed a role other than that resulting from long established practice. In the ILC however, discussion was under way concerning precisely the new role that should be attributed to the depository.

---

<sup>14</sup> *"It is with great regret that I had to decline your kind invitation to participate in the 18th meeting of the CAHDI in Strasbourg. This is all the more so since I always enjoyed working on the Committee when I was a member and would have liked to meet with old friends as well as getting to know the new members of the Committee.*

*With respect to the Report on the Pilot Project, I wish to express my appreciation for the successful outcome of the work of the Council of Europe in this field. Issues connected with succession of States, whether in matter of nationality, recognition, public property or other important areas, acquired great relevance in post cold war Europe. The way in which these issues were solved is an important lesson for the future. It is therefore of paramount interest to have readily available State practice from this interesting period in the history of Europe. The efforts undertaken by the Council of Europe, the Max Planck Institute for Comparative Public Law and International Law, the TMC Asser Institute and the Erik Castrén Institute of International Law and Human Rights are therefore of greatest relevance. These efforts contribute in an important manner to the prevention or the smooth solving of potential conflicts in these complex areas of international relations and, as much, constitute a significant contribution to the United Nations Decade of International Law, the culmination of which will be marked by the General Assembly latter in the year."*

Letter of 24 August 1999 addressed to the Director of Legal Affairs.

<sup>15</sup> Document DI-E-RIT (99) 5 :

**"8. Role of the depository in the ratification phase**

The depository is to receive reservations and declarations made by the State Parties on the occasion of expressing consent to be bound.

The depository has to establish whether a reservation complies with the treaty's rules on reservations clauses (see Articles 19.a and 19.b VCLT). If a reservation is questionable, the depository will have to take action.

The depository will notify reservations and declarations made to the State Parties and to States entitled to sign the treaty.

The depository will receive the objections made to reservations and notify all States Parties of such objections."

<sup>16</sup> See the meeting report, document DI-E-RIT (99) 9.

## 11. Application of the international instruments for the protection of the victims of armed conflicts

71. The Swiss Delegation drew the attention of the members of the CAHDI to current developments concerning the implementation of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

72. The United Nations General Assembly, in its tenth emergency special session, adopted on 9 February 1999 Resolution ES-10/6 in paragraph 6 of which it again recommended that the High Contracting Parties (HCPs) to the Fourth Geneva Convention ("the Convention") convene a conference on measures to enforce this convention in the Occupied Palestinian Territories, including Jerusalem, on 15th July 1999, at the United Nations' offices in Geneva".

73. The Conference recommended by Resolution ES-10/6 was in fact held in Geneva on 15 July 1999. It was able to take place because the great majority of the States Parties wanted it, and because this wish was confirmed at the end of the long consultation process carried out by the Depository.

74. Resolution ES-10/6 also invited the Swiss government, "*in its capacity as the depository of the Geneva Convention, to undertake whatever preparations are necessary prior to the Conference*". These preparations had mainly consisted, in accordance with the attributions of the Depository, in consulting with and informing the States Parties, and had involved regular and even intense contacts during the entire period that preceded the meeting.

75. Regarding the substance, it had been agreed, after intense consultations still going on in the preceded night, that the conference, whose objective was exclusively humanitarian, should not give rise to confrontations of a political and polemical nature. It had also been agreed that at this stage this conference would produce a single document, in the form of a declaration, which would be read by the Chairman. In addition, it had been agreed that there would be no other interventions.

76. In accordance with the wish expressed in the framework of these informal consultations, Switzerland had accepted to act as Chair for this meeting. In so doing, Switzerland clearly said that this acceptance in no way prejudiced its future position on this subject and that it would consider as accomplished the task entrusted to the Depository by Resolution ES-10/6.

77. The Chairman of the Conference read the aforesaid declaration as follows:

*This statement reflects the common understanding reached by the participating High Contracting Parties to the Conference.*

*After consultations among High Contracting Parties, the Conference, as recommended by UN GA Resolution ES-10/6 in its tenth Emergency Special Session<sup>17</sup>, convened in Geneva on 15 July 1999.*

*The participating High Contracting Parties reaffirmed the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem. Furthermore, they reiterated the need for full respect for the provisions of the said Convention in that Territory.*

*Taking into consideration the improved atmosphere in the Middle East as a whole, the Conference was adjourned on the understanding that it will convene again in the light of consultations on the development of the humanitarian situation in the field.*

---

<sup>17</sup> Operative paragraph 6 : "Reiterates its recommendation that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure respect thereof in accordance with common article 1, and further recommends that the High Contracting Parties convene the said conference on 15 July 1999 at the United Nations Office at Geneva."

78. It had been considered that this text reflected the common perception of the participating States. The Conference was then adjourned.

79. The declaration, distributed to the participants, had been published at the end of the Conference. It had also been transmitted to the States Parties and to the Secretary General of the United Nations.

## **12. Developments concerning the International Criminal Court (ICC)<sup>18</sup>**

80. The Secretariat presented a proposal for the possible holding of a Council of Europe multilateral meeting on the ratification of the Rome Statute for an International Criminal Court.

81. The Secretariat stated that to date, 85 States had signed the Rome Statute and four had ratified it. Two of these four States were Council of Europe Member States: Italy and San-Marino. Sixty ratifications were necessary for the Statute to enter into force.

82. On 10 December 1998, on the occasion of the 50th anniversary of the Universal Declaration of Human Rights, the Committee of Ministers had adopted a declaration in which the governments of the Member States had welcomed the adoption of the Statute of the International Criminal Court "as an important step towards the establishment of the rule of law at the international level and a significant contribution to the international protection of human rights", and called on States "to sign and ratify the Rome Statute and facilitate the rapid establishment of the International Criminal Court".

83. In addition, on 26 May 1999, the Standing Committee had adopted, on behalf of the Parliamentary Assembly, Recommendation 1408 (1999) on the International Criminal Court. The Committee of Ministers would reply to this Recommendation at one of its forthcoming meetings. It might decide to consult the CAHDI and the European Committee on Crime Problems (CDPC) on this subject.

84. At its plenary session in June 1999, the CDPC had given its agreement to the idea of holding a consultation meeting between all the Delegations at the beginning of 2000 in order to a) discuss and verify what were the obligations regarding the Rome Statute for Member States, b) examine the measures that the Council of Europe might take with a view to facilitating co-operation between States and the ICC.

85. A similar exercise had been held in 1993 by the CDPC, following the creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) by the United Nations Security Council. This Committee regularly examined developments relating to the ICC. Similarly, the CDPC had also examined developments leading to the establishment of an International Criminal Court.

86. In addition, the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC) had studied the difficulties caused by co-operation with the ICTY. In the future, and depending on the consultation meeting proposed for the beginning of 2000, the PC-OC might be called upon to develop a Council of Europe instrument aimed at facilitating co-operation between States and the ICC.

87. The CAHDI examined the usefulness of holding such a conference as proposed by the Secretariat.

88. Several delegations expressed their support for the holding of such a meeting and informed the Committee of the progress they had made concerning the ratification by their countries of the Rome Statute. The different methods of ratification were mentioned in particular.

89. The Italian delegate stated that his country had chosen early ratification while leaving legislative implementation to a later stage, while most of the other delegations which spoke on this point, in particular those of Finland, Sweden and Israel, had chosen to introduce as soon

---

<sup>18</sup> For information concerning the International Criminal Court, see [www.un.org/icc](http://www.un.org/icc).

as possible legislative measures permitting them to comply with the requirements of the Rome Statute before proceeding to its ratification. The delegations of Norway and Greece wondered about the necessity for and the possibility of amending the domestic legislation before proceeding to the ratification of the Statute.

90. The Norwegian delegate stated that they hoped to be able to conclude the internal procedures connected with the ratification in the course of the winter,. Similarly, the German delegation announced that its government intended to ratify the Statute as soon as possible and that to this end it would submit a proposal to the Parliament aimed at modifying article 16 of the Constitution, thus permitting the extradition of German nationals.

91. The French delegation raised a problem connected with the fact that it did not yet exist and that the French text of the Statute contained several material errors.

92. The Committee agreed on the usefulness of the consultation meeting proposed by the Secretariat, which would considerably help the States confronted with difficulties of a constitutional and penal nature connected with the ratification of the Rome Statute.

93. The Committee agreed to support the Secretariat proposal to hold a consultation meeting which would be organised jointly with the CDPC, the precise format of which would be decided later. The Committee was of the opinion that the meeting should include government specialists only.

94. In addition, it decided that a questionnaire which would help identify the main subjects of the meeting would be sent to all Member States and observers. Similarly, the participant States would be invited to submit to the Secretariat governmental and parliamentary reports on this subject which would be distributed to all participants.

### **13. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)<sup>19</sup>**

95. The Chairman recalled that Mrs Louise Arbour had been replaced by Mrs Carla Del Ponte in the post of prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY).

96. The United States of America observer informed the Committee that his country had conclude co-operation agreements with the Tribunals created by Resolutions 827 (1993) and 955 (1994) of the United Nations Security Council concerning evidence and the bringing of suspects before the Tribunals. He stated that the United States Supreme Court had concluded that such agreements were valid.

97. The Norwegian delegate referred to the International Criminal Tribunal for Rwanda (ICTR) which had a new President and a new Vice-President in the persons of Mr Navanethem Pillay (Republic of South Africa) and Mr Erik Møse (Norway). The Norwegian delegate had met the latter in July. He stated that the ICTR had introduced a new administrative practice aimed at reducing the Tribunal's difficulties, for example by holding regular meetings between the judges and the administration. These meetings had made it possible to increase the efficiency of the Tribunal and Mr Møse was optimistic for the future. He also stated that Mali was the only country that had concluded an agreement concerning the reception of persons judged guilty. Norway had offered to receive such persons, but the Tribunal wished the sentences that it pronounced should be served in Africa.

98. The Chairman informed the CAHDI that he had visited the ICTY in April. The ICTY had a Secretariat of over 700 people. This Tribunal thus did not lack personnel, but it did not attach the same interest to all cases. Lastly, he wondered about the advisability of having two separate prosecutors, one for each of the Tribunals.

---

<sup>19</sup> For information concerning these tribunals, see [www.un.org/law](http://www.un.org/law).

99. The United Kingdom delegate thought there were very good reasons for having a prosecutor for each of the Tribunals insofar as their Offices were considerably overloaded. He said that no reduction in the workload was to be expected.

100. The Austrian delegate referred to the spectacular arrest of a war criminal in his country. In August, five officers of the ICTY prosecutor's office had transmitted an arrest warrant on behalf of the Tribunal concerning Mr Talić, head of the Bosnian Serbs in Republika Srpska, who was attending a meeting of the OSCE. The arrest had attracted a great deal of publicity. The legal question arose of whether this person should be considered, as a delegate of the meetings OSCE enjoying certain immunities by virtue of the application of the United Nations Agreement on privileges and immunities, which applied in Vienna with respect to the OSCE. Insofar as this person was within the field of application of this agreement, he could not be arrested. However, it had been concluded that such was not the case because, as it happened, it was not a meeting of the OSCE proper, but a national gathering. Furthermore, even if it had been a meeting of the OSCE, Mr Talić would not have enjoyed immunity because the Statute of the ICTY was an Appendix to a United Nations Security Council Resolution and States had the obligation to comply with the detention order and hand this person over to the ICTY. The Austrian delegate concluded by saying that it would be useful for the ICTY and for the international community if this obligation to comply with the orders of the ICTY was explicitly promulgated, which had not been the case to date.

101. In this connection, the Chairman pointed out that such persons did not enjoy immunity outside their national territory. In addition, the Netherlands delegate said that, even if the Statute of the ICTY was not based on a United Nations Security Council Resolution, the question of immunities would not arise because they were granted for the benefit of the function and not the person. He concluded by pointing out that the experts who participated in meetings of international organisations therefore enjoyed only partial immunity.

102. The Greek delegate expressed some reservations on the position held by the Netherlands delegate.

103. The Swiss delegate informed the CAHDI of the measures taken by the ICTY concerning the freezing of the accounts held in Swiss banks by certain persons accused of crimes against humanity.

104. In this connection the Chairman stated that the European Union was of the opinion that this was not within its competence.

105. The Croatian delegate informed the CAHDI that her country too had concluded co-operation agreements with the ICTY. However, it appeared that her country found itself under the obligation to prove its desire to co-operate effectively. In this connection she pointed out that several Croatian nationals were serving sentences after having presented themselves voluntarily to the ICTY. Her country found some difficulty in submitting to the ICTY documents covered by defence secrecy, but the fact remained that Croatia did really wish to co-operate with the ICTY<sup>20</sup>.

#### **14. Protection of the cultural heritage in times of war**

106. The Diplomatic Conference on the Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, jointly convened by the Netherlands and UNESCO, was held in The Hague, at the invitation of the Netherlands government, from 15 to 26 March 1999.

107. Of the 95 States then Parties to the Convention, 74 participated in the Conference. Nineteen States not Parties to the Convention, together with Palestine, were represented as observers as well as several international organisations.

---

<sup>20</sup> After the CAHDI meeting, the Croatian delegation sent to the Secretariat a document concerning this country's co-operation with the TY. This report is available from the Secretariat on demand.

108. The Conference was opened by Mr J.-J. van Aartsen, Netherlands Minister of Foreign Affairs, and Mr van der Ploeg, Secretary of State for Culture, and Mr F. Mayor, Director General of UNESCO. The Conference, by consensus, elected Mr Adriaan Bos (Netherlands) to the Chair. On his proposal, the Conference decided to proceed, as far as possible, by consensus.

109. The Chairman of the Conference then opened the general debate. Certain delegates were of the opinion that the draft Second Protocol constituted an amendment to the Convention and that it was therefore necessary to apply the procedure set out in article 39 of the Hague Convention; others were more in favour of the adoption of a new convention, while yet others preferred the adoption of an optional Second Protocol. Several States pointed out that the adoption of the Second Protocol should not have any impact on the rights and obligations of the States Parties to the Convention who refused to be bound by the provisions of this Protocol.

110. The inadequacy of the existing rules concerning "special protection" was stressed, as was the necessity to improve the system in force. The need to establish a fair balance between military interests and the protection of human lives and cultural goods was also mentioned. The importance of the provisions relating to "military necessity" was also highlighted. Certain States were of the opinion that the draft Second Protocol did not take sufficient account of other international humanitarian law instruments. According to another opinion, it was important to prepare a clear and coherent instrument that could realistically be expected to be accepted.

111. Considerable interest was shown in the important questions of criminal responsibility and international jurisdiction in the punishment of offences, and also that of legal co-operation. Some participants were of the opinion that the provisions relating to penal sanctions should be strictly in line with those of the First Additional Protocol to the Geneva Conventions. Regarding individual criminal responsibility, certain States considered that the Second Protocol to the Hague Convention should institute a legal regime different from that already established by the Statute of the International Criminal Court of 1998, whereas according to others it was necessary on the contrary to fall in line with it, the questions of individual criminal responsibility and the responsibility of States having already been settled by the international community in the instruments in question.

112. Some delegations expressed their preference for the solution of creating an intergovernmental Committee, but the idea of another structure also received a certain amount of support. One State mentioned the importance of the provisions of the draft applicable to occupied territories, while another called into question the desirability of providing for the payment of obligatory contributions to a fund. Five States (China, Denmark, the United States of America, Ireland and the United Kingdom) announced that they had progressed towards accession to the Hague Convention.

113. At the end of the conference, the participants had adopted a resolution and the text of the Second Protocol by consensus<sup>21</sup>.

## **15. Activity of the Sixth Committee of the General Assembly of the United Nations and of the International Law Commission (ILC)**

114. The Committee examined an unedited version of the report of the 51st session of the ILC (Geneva, 3 May – 23 July 1999) obtained thanks to the inter-secretariat contacts of the Council of Europe and the United Nations at the request of the CAHDI, as well as a report of the 51st session of the ILC prepared for the members of the CAHDI by Professor B. Simma, member of the ILC

---

<sup>21</sup> Extract from the analytical report of the conference, [www.unesco.org/culture/legalprotection/html\\_fr/index\\_fr.htm](http://www.unesco.org/culture/legalprotection/html_fr/index_fr.htm).

115. The Committee expressed its satisfaction at the links with the ILC and thanked Professor Bruno Simma for his article on the 51st session of the ILC. The Chairman invited the delegations to make targeted interventions at the meeting of the Sixth Committee, thus permitting in-depth discussion of each of the subjects in the ILC report, rather than general contributions covering all of the ILC's action.

116. At the request of the Israeli observer, the Secretariat informed the CAHDI of its participation in the last session of the ILC, mentioning in particular the interest that the ILC took in the work of the CAHDI<sup>22</sup>.

117. The Chairman thanked the Secretariat for this information and stressed the interest of continuing the contacts between the CAHDI and the ILC in this way.

118. The Italian delegate raised the problem, still present, of the relations between the ILC and the Sixth Committee, and in particular that of how the later might influence the work of the former.

119. The Swedish delegate referred to the ILC activity on reservations to international treaties. He pointed out that the ILC had not yet debated any of the eminently practical questions dealt with by the DI-E-RIT, which had led to concrete results (cf. Recommendation No. R. (99) 13 of the Committee of Ministers). In particular, the ILC had not yet dealt with the question of the admissibility of certain types of reservation and of their legal status. The Special Rapporteur was very meticulous but his work still concerned definitions only. It appeared that he would not deal with the questions that had interested the DI-E-RIT until his 5th report.

120. The United Kingdom delegate referred to the activity on jurisdictional immunities of States and their properties. He considered that the prospects for arriving at an international convention in this field were limited and that this was therefore rather unrealistic. In this connection, the French delegate supported the preparation of such a convention by the ILC even though there were difficulties to overcome and the text prepared by the ILC was far from being definitively accepted by the international community. He informed the Committee that a Working Group would meet in New York on the occasion of the meeting of the Sixth Committee to try to make progress in this field. Similarly, the Greek delegate and the Japanese observer said that it was premature to dismiss the idea of such a convention.

121. The Irish delegate referred to the activity on diplomatic protection and noted that the ILC had invited States to inform it of their national practice. In this connection, the Spanish delegate informed the CAHDI that his country had sent to the ILC several decisions of the Constitutional Court on the question. He said that the ILC had not yet produced a new report on this question which was awaited with interest.

## **16. The United Nations Decade of International Law from 1990 to 1999: Centennial of the First International Peace Conference and closure of the United Nations Decade of International Law**

122. The Netherlands Delegate informed the Committee that his country and the Russian Federation were at present collaborating on the preparation of a report and a draft resolution on the follow-up to be given to the Centennial of the First International Peace Conference to be submitted to the United Nations General Assembly.

123. The delegate of the Russian Federation informed the Committee of the meetings to commemorate the Centennial of the First International Peace Conference which were held in The Hague and Saint Petersburg from 22 to 25 June. They had been organised as parallel meetings and had been a great success.

124. Several delegations proposed contributing to the preparation of the draft resolution mentioned above.

---

<sup>22</sup> The report of the 51st session of the ILC is available on [www.un.org/law/ilc/sessions/51/51sess.htm](http://www.un.org/law/ilc/sessions/51/51sess.htm).



125. The Chairman thanked the delegates of the Netherlands and the Russian Federation for this information and congratulated them, on behalf of the Committee, for the success of these events. He said that the Centennial of the Second International Peace Conference would be in 2007. As for the United Nations Decade of International Law, the CAHDI had contributed with several texts. 1999 had thus been a year full of events in the field public international law aimed in particular at preserving peace in the world.

#### **D. OTHER**

##### **17. Election of the Chair and Vice-Chair of the CAHDI**

126. Pursuant to article 17 of Appendix 2 of Resolution (76) 3 of the Committee of Ministers, the CAHDI re-elected Ambassador Dr Hilger (Germany) for one year.

127. The Chairman announced that the Vice-Chairman of the Committee, Ambassador Tomka (Slovak Republic) had been elected member of the ILC and Ambassador to the United Nations. Since Mr Tomka had not confirmed his desire to continue to attend the CAHDI meeting, the Committee postponed the election of the Vice-Chairman to its next meeting (see 13 below) and instructed the Secretariat to ask for Mr Tomka's opinion.

##### **18. Election of a Bureau of the CAHDI**

128. The CAHDI examined a proposal aimed at setting up a Bureau, pursuant to article 8, Appendix II of Resolution (76) 3 of the Committee of Ministers, on the basis of a document that the Secretariat had been invited to prepare (document CAHDI (99) 19).

129. The delegations of the United Kingdom and Hungary maintained that such a Bureau was not necessary and proposed that the Committee should take note of the proposal and postpone it to a later meeting.

130. The CAHDI did not follow up the proposal for the setting up of a Bureau and decided to return to this proposal following any request by the Secretariat.

##### **19. Date, place and agenda of the 19th meeting of the CAHDI**

131. On behalf of the German authorities, the Chairman of the CAHDI invited the CAHDI to hold its next meeting and the next meeting of the DI-E-RIT in Berlin in March 2000.

132. The CAHDI thanked Ambassador Hilger for this kind invitation and decided, in accordance with the intergovernmental programme of activities and the budget of the Council of Europe for the year 2000, and subject to agreement by the Committee of Ministers, to hold its 19th meeting in Berlin, on 13 and 14 March 2000. In addition, the CAHDI decided to hold the 3rd meeting of the Group of Experts on Reservations to International Treaties (DI-E-RIT) in Berlin, on 10 March 2000, just before the CAHDI meeting, in order to permit the participation of the greatest possible number of members of the CAHDI in the DI-E-RIT meeting.

133. The CAHDI examined the provisional agenda for the next meeting of the Committee. The Chairman proposed inviting the President of the International Court of Conciliation and Arbitration, Mr Badinter, to the next meeting of the CAHDI to report on developments concerning this Court and to hold an exchange of views with the members of the CAHDI. The CAHDI agreed to this proposal and decided to inscribe an item in the agenda of its next meeting in this sense. In addition, it instructed the Secretariat to transmit the Committee's invitation to Mr Badinter<sup>23</sup>.

---

<sup>23</sup> By the time this report was prepared, Mr Badinter had accepted the invitation formulated by the Director General of Legal Affairs. Mr Badinter will make a statement to the CAHDI on 14 March 2000 which will be followed by an exchange of views with the members of the Committee.

134. Similarly, in response to the Secretariat proposal, the CAHDI agreed to make a contribution to mark the celebration of the 50th anniversary of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention)(1950-2000). In this connection, the Committee decided to prepare a report concerning “the implications of the ratification of the Convention for the development of international law” by an independent expert. This report would be a basis for a discussion at the next meeting of the CAHDI. The Committee instructed the Secretariat to implement this activity under the authority of the Chairman. An item in this sense was inscribed in the agenda of the next meeting of the Committee.

135. In this connection the Italian delegate informed the CAHDI that Italy proposed the holding of a ceremony to commemorate the Convention in Rome as well as a special session of the Council of Europe Committee of Ministers.

136. The CAHDI decide in addition to include in the agenda of the next meeting an item concerning the protection of the underwater cultural heritage, which give rise to several interesting legal questions, in particular from the standpoint of law of the sea.

137. The United Kingdom delegate proposed that at its next meeting the CAHDI should examine the proposal submitted to the Committee of Ministers by the delegation of the Czech Republic concerning the creation of a general legal body. The delegate of the Czech Republic said that this question was at present being examined by other organs of the Council of Europe, in particular by the Committee of Ministers Rapporteur Group on Legal Co-operation and by the Parliamentary Assembly. The Swiss delegate considered that it was all the more important for the CAHDI to examine this proposal in view of its implications from the standpoint of public international law. The Chairman concluded that the CAHDI was competent to examine this type of question and the Committee agreed on the inclusion of this question in the agenda of its next meeting.

138. The CAHDI approved the preliminary draft agenda for the 19th meeting, which appears in Appendix VI.

## **20. Other business**

139. At the request of the Georgian delegate, an article on State succession in respect of international treaties in the former Soviet Union concerning Georgia was distributed to the members of the Committee<sup>24</sup>.

140. In addition, at the request of several delegations, the Israeli observer distributed the note of the 4 September 1999 entitled *Sharms el-Sheikh Memorandum* signed by the Representatives of Israel and the OLP. This note stressed the commitment of the two parties to full implementation of the agreements concluded since 1993, and provided for the resolution of the questions not yet resolved of the present interim status, in particular those set out in the *Wye River Memorandum* of the 23 October 1998<sup>25</sup>.

141. The Mexican observer informed the members of the CAHDI that a consultation meeting of Legal Advisers would be held in connection with meeting of the United Nations Sixth Committee on 25 and 26 October in New York. This meeting was in line with the similar meetings resulting from a joint initiative of Sweden, Poland, Canada, India and Mexico.

142. The CAHDI paid tribute to the memory of the late Ambassador Mircea (Romania), former member of the Committee.

---

<sup>24</sup> *State Succession in respect of international treaties in post-independent Soviet Union: Some reflections on the status of Georgia*, *Journal of International Law*, Tbilisi State University, Faculty of Law and international Relations, Vol. III, No. I-II, Tbilisi University Press, 1998.

<sup>25</sup> The text of the Wye River Memorandum is available on <http://www.mfa.gov.il/mfa/go.asp?MFAH07or0>.

143. In addition, on behalf of the Committee, the Chairman congratulated Ambassador Cede (Austria) on his appointment as Ambassador to the Russian Federation, thanking him for his important contribution to the activities of the Committee, in particular in the field of reservations to international treaties.

## **21. Closure of the meeting**

144. The Chairman closed the meeting of the CAHDI by thanking the members of the Committee for their aid, stressing the quite exceptional role of the CAHDI in the framework of the Council of Europe.

145. The CAHDI approved an abridged report for the attention of the Committee of Ministers, which appears in Appendix V of this report.

**APPENDIX I****LIST OF PARTICIPANTS**

**ALBANIA /ALBANIE**: Mrs Ledjia HYSI, Acting Director of the Legal and Consular Department, Blvd. "Zhan d'Ark", Ministry of Foreign Affairs, TIRANA (Tel: 355 42 64674 - Fax: 355 42 62085)

**ANDORRA /ANDORRE**: Mme Maria UBACH, Représentant Permanent adjoint d'Andorre auprès du Conseil de l'Europe – Palais de l'Europe, Bureau 2027 – F-67075 Strasbourg Cedex (Tel : 33 3 88 41 29 62 – Fax : 33 3 88 41 37 50)

**AUSTRIA/AUTRICHE**: Mr Franz CEDE, Ambassador, Legal Adviser, Ministry for Foreign Affairs, Ballhausplatz 2, 1014 WIEN (Tel: 43 1 53 115 33 69 - Fax: 43 1 53 185 312 – E-mail: [franz.cede@wien.bmaa.gv.at](mailto:franz.cede@wien.bmaa.gv.at))

**BELGIUM/BELGIQUE**: Mme A.M. SNYERS, Conseiller Général, Direction Générale des Affaires Juridiques, Ministère des Affaires Etrangères, 15, rue des Petits Carmes, 1 000 BRUXELLES (Tél: 32 2 501 80 88 - Fax: 32 2 511 22 59)

**BULGARIA /BULGARIE**: Mr Aliocha NEDELTCHEV, Director of International Law Directorate, Ministry of Foreign Affairs, 2 Al. Zhendov Street, 1113 SOFIA (Tel. 359 2 73 78 05 - Fax: 359 2 73 12 16 – E-mail: [ILD.MFA@mbo.bol.bg](mailto:ILD.MFA@mbo.bol.bg))

**CROATIA /CROATIE**: Ms Ljerka ALAJBEG, Ambassador, Chief Legal Adviser, Ministry of Foreign Affairs, Trg. N.Š. Zrinskog 8, 10000 ZAGREB (Tel: 385 1 4569964 - Fax: 385 1 4551795)

**CYPRUS /CHYPRE**: Mme Georghia EROTKRITOU, Attorney of the Republic of Cyprus, Appellis St., CY - NICOSIA (Tel: 357 2 668073 - Fax: 357 2 66 5080)

**CZECH REPUBLIC /REPUBLIQUE TCHEQUE**: M. Jiří MALENOVSKÝ, Ambassador, Director General of the Legal and Consular Section, Ministry of Foreign Affairs, Loretánské Nám. 5, CZ - 118 00 PRAGUE (Tel: 42 2 241 82231 - Fax: 42 2 241 82038)

**DENMARK/DANEMARK**: Mr Hans KLINGENBERG, Ambassador, Head of the Legal Service, Ministry of Foreign Affairs, 2 Asiatisk Plads, 1448 COPENHAGEN K (Tel: 45 33 920323 Fax: 45 33 920303 – [hankli@um.dk](mailto:hankli@um.dk))

**ESTONIA/ESTONIE**: Mrs Marina KALJURAND, Director General of the Legal Department, Ministry of Foreign Affairs of the Republic of Estonia, Rävälä pst 9, 15049 TALLINN (Tel: 372 631 7400 – Fax: 372 631 7439 – E-mail: [mkaljurand@mfa.ee](mailto:mkaljurand@mfa.ee))

**FINLAND/FINLANDE**: Mr Holger ROTKIRCH, Ambassador, Director General for legal Affairs, Ministry for Foreign Affairs, P.O. Box 176, 00161 HELSINKI (Tel: 358 9 13415700 - Fax: 358 9 13415703 – E-mail: [holger.rotkirch@formin.fi](mailto:holger.rotkirch@formin.fi))

Mr Esko KIURU, Deputy Director General for Legal Affairs, Ministry of Foreign Affairs, P.O. Box 176, SF-00161 HELSINKI (Tel: 358 9 13415732 – Fax: 358 9 13415707 – E-mail: [esko.kiuru@formin.fi](mailto:esko.kiuru@formin.fi))

**FRANCE**: Monsieur Jean-Luc FLORENT, Sous-directeur du droit international public général, Direction des Affaires Juridiques, Ministère des Affaires étrangères, 37, quai d'Orsay – 75007 PARIS

Mme Frédérique COULÉE, Direction des Affaires Juridiques, Sous direction du droit international public, Ministère des Affaires étrangères, 37 quai d'Orsay 75007 PARIS - Tel : 33 1 43 17 53 39– Fax : 33 1 43 17 43 59 – [frederique.coulee@diplo.fr](mailto:frederique.coulee@diplo.fr)

**GEORGIA/GEORGIE**: Mr Gela BEZHUASHVILI, Director of International Law Department, Ministry of Foreign Affairs, Chitadze St. 6, TBILISI 380018 (Tel: 99532 989412, Fax: 99532 989412/989368 – E-mail: [INT.Law@mfa.GOV.GE](mailto:INT.Law@mfa.GOV.GE))

**GERMANY/ALLEMAGNE:** Dr Reinhard HILGER, Ambassador, Director of the Public International Law Section, Federal Foreign Office Section, Auswärtiges Amt, 53001 BONN (Tel: 49 228 172706 Fax: 49 228 17 3784) **Chairman/Président**

Dr Ernst MARTENS, Deputy Head of the Treaty Division, Federal Foreign Office, Auswärtiges Amt – 53001 BONN (Tel: 49 228 173204 – Fax : 49 228 173784)

M. Klemens MÖMKES, Premier Secrétaire, Droit public international, Federal Foreign Office, Auswärtiges Amt, Niebuhrstr. 6 – 10 – 53113 BONN (Tel: 49 1888 173336, Fax: 49 1888 174044)

**GREECE/GRECE:** Ms Phani DASCALOPOULOU-LIVADA, Legal Adviser, Deputy Head of the Legal Department, Ministry of Foreign Affairs, 3 Zalokosta Street, ATHENS (Tel: 30 1 368 33 08 - Fax: 30 1 360 80 53)\*

**HUNGARY/HONGRIE:** Mr György SZÉNÁSI, Ambassador, Head of International Law Department, Ministry of Foreign Affairs, Budapest 62, PF 423, Bem Rakpart 47, 1394 BUDAPEST (**Président/Chairman**) (Tel: 361 156 3528 – Fax: 361 458 1091 - - E-mail: [szenasiy@njk.kum.hu](mailto:szenasiy@njk.kum.hu))

Ms Gabrielle HORVÁTH, Deuxième Secrétaire, Département du droit international, Ministère des Affaires étrangères, Budapest 62, PF 423, Bem Rakpart 47, 1394 BUDAPEST

**ICELAND/ISLANDE:** Mr Thomas H. HEIDAR, Legal Adviser, Ministry of Foreign Affairs, Raudararstigur 25, 150 REYKJAVIK (Tel: 354 560 9900 – Fax: 354 562 2373 – E-mail: [tomas.heidar@utn.stjr.is](mailto:tomas.heidar@utn.stjr.is))

**ITALY/ITALIE:** M. Umberto LEANZA, Chef du Service Juridique, Ministère des Affaires Etrangères, Piazza della Farnesina, 1, I - ROMA 00197 (Tel: 390 6 369 124 60 Fax: 390 6 - 3230315 – 3236002)

Mme Ida CARACCILOLO, Lecturer International Law Detached, Ministry of Foreign Affairs, Legal Service, Piazza della Farnesina, 1 – ROMA 00197

**IRELAND/IRLANDE:** Dr. Alpha CONNELLY, Legal Adviser, Legal Division, Department of Foreign Affairs, Hainault House, 69-71 St. Stephen's Green, DUBLIN 2 (Tel: 353 1 478 08 22, ext : 2365 - Fax: 353 1 478 59 50)

**LATVIA/LETTONIE:** Mrs Kristina MALINOVSKA, Acting Director of Legal Department, Ministry of Foreign Affairs, Brivibas Boulv. 36, LV-1395 RIGA (Tel: 371 7016106 - Fax: 371 7828121)

**LIECHTENSTEIN:** M. Daniel OSPELT, Vice-Directeur de l'Office pour les Affaires étrangères, Heiligkreuz 14 - FL 9490 VADUZ (Tel: 41 75 236 60 51 - Fax: 41 75 236 60 59 – E-mail: [Daniel.Ospelt@aaa.llv.li](mailto:Daniel.Ospelt@aaa.llv.li))

**LITHUANIA/LITUANIE:** Ms Sigutė JAKŠTONYTE, Deputy Director of the Legal and International Law Department of the Ministry of Foreign Affairs, J. Tumo-Vaizganto 2, VILNIUS 2600

**LUXEMBOURG:** - Apologised/excusé

**MALTA/MALTE:** Dr Lawrence QUINTANO, Senior Counsel for the Republic, Office of the Attorney General, Palazzo Parisio, Merchants' Street, VALLETTA CMR 02 (Tel: 356 239575 - Fax: 356 240738)

**MOLDOVA:** Mrs Tatiana PARVU, Councillor to the General Department of International Law and Treaties, Ministry of Foreign Affairs, 80, 31 August 1989 street, Ministerul Afacerilor Externe, CHISINAU - MD 2012. Phone: 373 2 578258 - Fax: 373 2 578301 or 373 2 232302

**NETHERLANDS/PAYS-BAS:** Dr Johan G. LAMMERS, Legal Adviser, Head of the International Law Department, Ministry of Foreign Affairs, Bezuidenhoutseweg 67, Postbus 20061, 2500 EB THE HAGUE (Tel: 31 70 348 61 37 - Fax: 31 70 348 51 28)

**NORWAY/NORVEGE**: Mr Hans Wilhelm LONGVA, Ambassador, Director General, Department of Legal Affairs, Royal Ministry of Foreign Affairs, P.O.Box 8114, Dep., 0032 OSLO 1 (Tel: 47 22 243600 - Fax: 47 22 24 95 80/81)

Mr Rune RESALAND, Deputy Director General, Department of Legal Affairs, Royal Ministry of Foreign Affairs, P.O. Box 8114, Dep. 0032 OSLO 1 (E-mail: rune.resaland@ud.dep.telemax.no)

**POLAND/POLOGNE**: Dr Jerzy KRANZ, Directeur du Département juridique et consulaire, Ministère des Affaires étrangères, Al. Szucha 23, 00-580 WARSAW (Tel : 48 22 523 94 40 - Fax : 48 22 523 80 59)

**PORTUGAL**: M. José Maria TEIXEIRA LEITE MARTINS, Directeur du Département des Affaires Juridiques, Ministère des Affaires Etrangères, Largo do Rilvas, 1354 LISBOA CODEX (Tel: 351 1 397 28 14 - Fax: 351 1 397 71 49)

**ROMANIA/ROUMANIE**: M. Florin FLORIAN, Directeur des Affaires Juridiques et des Traités, Ministère des Affaires Etrangères, Aleea Modrogan n° 14, BUCAREST (Tel: 40 1 230 75 95 - Fax: 40 1 230 75 71)

**RUSSIAN FEDERATION/FEDERATION DE RUSSIE**: Mr Leonid SKOTNIKOV, Ambassador, Director of the Legal Department, Ministry of Foreign Affairs, Arbat 54, MOSCOW (Tel: 7 095 2417718 - Fax: 7 095 2411166)

**SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE**: M. Ján VARŠO, General Director, Section of International Law and Consular Affairs, Ministry of Foreign Affairs, Hlboká cesta 2, 833 36 BRATISLAVA (Tel: 421 17 59783701 - Fax: 421 17 5978 3709)

**SLOVENIA/SLOVENIE**: Mr Andrej GRASSELLI, Head of the International and Law Department, Ministry for Foreign Affairs, Gregorčičeva 25 - 1000 LJUBLJANA (Tel: 386 61 178 22 78 - Fax: 386 61 178 21 75)

**SPAIN/ESPAGNE**: Mr Aurelio PEREZ GIRALDA, Ambassador, Chief Legal Adviser, Ministerio de Asuntos Exteriores, Plaza de la Provincia 1, 28071 MADRID (Tel : 34 91 5221143 – Fax : 34 91 5781078)

M. Maximiliano BERNAD Y ALVAREZ DE EULATE, Professeur de Droit international public et d'Institutions et droit communautaire européens, Université de Zaragoza, Coso 24, 50004 ZARAGOZA (Tel: 34 976 22 51 64 - Fax: 34 976 233958)

**SWEDEN/SUEDE**: Mr Lars MAGNUSON, Ambassador, Director General for Legal Affairs, Ministry for Foreign Affairs, Box 16121, 103 49 STOCKHOLM (Tel: 46 8 4055053 - Fax: 46 8 7231176)

**SWITZERLAND/SUISSE**: M. l'Ambassadeur Nicolas MICHEL, Jurisconsulte, Directeur de la Direction du Droit international public, Département fédéral des affaires étrangères, Palais fédéral Ouest, CH-3003 BERNE (Tel: 41 31 322 30 61, Fax: 41 31 324 90 73)

M. Jürg LINDENMANN, Direction du Droit international public, Département fédéral des Affaires étrangères, Palais fédéral Ouest, CH-3003 BERNE (Tel: 41 31 324 55 99 – Fax: 41 31 324 90 73)

**“THE FORMER REPUBLIC YUGOSLAV OF MACEDONIA/L'EX-REPUBLIQUE YUGOSLAVE DE MACEDOINE”**: Dr Elena ANDREEVSKA, Director of the Directorate for International Law, Ministry of Foreign Affairs, Rue Dame Gruev 6 – 91000 SKOPJE

**TURKEY/ TURQUIE**: Mrs Nehir ÜNEL, Legal Adviser to the Foreign Ministry, Legal Section, Dışişleri Bakanlığı, Hukuk Müşavirliği, Anit cad. No. 12, 06100 Tandoğan/ANKARA (Tel: 90 312 212 89 46 - Fax: 90 312 212 76 37)

**UKRAINE**: Mr V. KORZACHENKO, Legal and Treaty Department, Ministry for Foreign Affairs of Ukraine, Mykhaylivska sqe, 1, 252018 KYIV (Tel: 380 44 212 85 24 - Fax: 380 44 212 82 27)

**UNITED KINGDOM/ ROYAUME-UNI**: Mr Christopher WHOMERSLEY, Legal Counsellor, Foreign and Commonwealth Office, Room K188, King Charles Street, LONDON SW1 (Tel: 44 171 270 3284 - Fax: 44 171 270 1477)

### **SPECIAL GUESTS/INVITES SPECIAUX**

Mr Luzius WILDHABER, President of the European Court of Human Rights/Président de la Cour Européenne des Droits de l'Homme, Human Rights Building, F-67075 STRASBOURG Cedex

M. Lucius CAFLISCH, Judge/Juge, European Court of Human Rights/Cour Européenne des Droits de l'Homme, Human Rights Building, F – 67075 STRASBOURG Cedex

M. Luigi FERRARI BRAVO, Judge/Juge, European Court of Human Rights/Cour Européenne des Droits de l'Homme, Human Rights Building, F – 67075 STRASBOURG Cedex

M. Antonio PASTOR RIDRUEJO, Judge/Juge, European Court of Human Rights/Cour Européenne des Droits de l'Homme, Human Rights Building, F – 67075 STRASBOURG Cedex

Mr Olivier RIBBELINK, T.M.C. Asser Institute, P.O. Box 30461 – 2500 GL THE HAGUE – The Netherlands

Mr Andreas ZIMMERMANN, Max Planck Institute, Im Neuenheimer Feld 535 – 69120 HEIDELBERG – Germany

Mr Jan KLABBERS, Erick Castrèn Institute, University of Helsinki, Department of Public Law, 00014 HELSINKI – Finland

### **EUROPEAN COMMUNITY/COMMUNAUTE EUROPEENNE**

**EUROPEAN COMMISSION/COMMISSION EUROPEENNE**: Apologised/Excusé

### **OBSERVERS/OBSERVATEURS**

**CANADA**: Mr Gilbert LAURIN, Counsellor, The Canadian Embassy, Via G.B. de Rossi, 27 – 00161 ROME (Tel : 39 06 44598271 – Fax: 39 06 44598760)

**HOLY SEE/SAINT-SIEGE**: Mme Odile GANGHOFER, 16, rue des Pontonniers – 67000 STRASBOURG

**JAPAN/JAPON**: Ms Masataka OKANO, Deputy Director of the Legal Affairs Division, Treaties Bureau, Ministry of Foreign Affairs, Kasumigaseki 2-2-1, Chiyoda TOKYO 100-8919 (Tel : 81 3 3581 2047 – Fax : 81 3 3580 5074 – E-mail: masataka.okano@mofa.go.jp)

**UNITED STATES OF AMERICA/ ETATS-UNIS D'AMERIQUE**: Mr Robert E. DALTON, Assistant Legal Adviser for Treaty Affairs – Department of State, USA WASHINGTON DC 20520 (Tel : 1 202 647 2044 – Fax : 1 202 736 7541)

**UNITED STATES OF MEXICO/ ETATS UNIS DU MEXIQUE**: Mr Miguel Angel GONZÁLEZ FELIX, Ambassador, Chief Legal Adviser Ministry of Foreign Affairs (SRE), Avenida Ricardo Flores Magon n°1, Edificio Nuevo Cuerpo B 3 er. Piso, - Tlatelolco C.P. 06995 - MEXICO DF (Tel : 52 5 597 00 74/583 05 21 - Fax : 52 5 327 32 82)

**ISRAEL**: Mr Alan BAKER, Legal Adviser, Ministry of Foreign Affairs, JERUSALEM 91950 (Tel: 972 25303761 – Fax: 972 25303251 - E-mail: ALANB@MOFA.GOV.IL)

**AZERBAIJAN/AZERBAIDJAN:** M. Gunesh ROUSTAM-ZADEH, 3e Secrétaire du Département du droit et des traités, Ministère des Affaires étrangères, 4, rue Shikhali Kurbanov, BAKOU 370009 (Tel: 994 12 92 67 05, Fax: 994 12 97 15 48)

**ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT / ORGANISATION DE COOPERATION ET DE DEVELOPPEMENT ECONOMIQUES:**  
Apologised/Excusé

**NORTH ATLANTIC TREATY ORGANISATION / ORGANISATION DU TRAITE DE L'ATLANTIQUE NORD:** M. Baldwin DE VIDTS, Conseiller Juridique, Service juridique de l'OTAN, Bd Leopold III, B-1110 BRUXELLES (Tel: 32 2 7074008 Fax: 32 2 7074666)

**THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW/CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE:** Apologised/Excusé

### **SECRETARIAT GENERAL**

Mr Walter SCHWIMMER, Secretary General of the Council of Europe/Secrétaire général du Conseil de l'Europe

Mr Mario MARTINS, Principal Administrator/Administrateur principal, Private Office of the Secretary General/Cabinet du Secrétaire Général

M. Guy DE VEL, Directeur des Affaires Juridiques/Director of Legal Affairs (Tel: 33 3 88 41 22 01 – Fax: 33 3 88 41 37 39 – E-mail: [guy.devel@coe.int](mailto:guy.devel@coe.int))

M. Jean-André TSIMARATOS, Directeur délégué à l'édition et de la documentation/ Director responsible for publishing and documentation service

M. Alexey KOZHEMYAKOV, Head of the Public and International Law Division/Chef de la Division du Droit Public et international, Directorate of Legal Affairs/Direction des Affaires juridiques (Tél: 33 3 88 41 38 00 – Fax: 33 3 88 41 27 64 – E-mail: [alexey.kozhemyakov@coe.int](mailto:alexey.kozhemyakov@coe.int))

M. Rafael A. BENITEZ, **Secretary of the CAHDI/Secrétaire du CAHDI**, Public and International Law Division/Division du Droit public et international, Directorate of Legal Affairs/Direction des Affaires juridiques (Tél: 33 3 88 41 34 79 – Fax: 33 3 88 41 27 64 – E-mail: [rafael.benitez@coe.int](mailto:rafael.benitez@coe.int))

Mme Francine NAAS, Assistant/Assistante, Public and International Law Division/Division du Droit public et international, Directorate of Legal Affairs/Direction des Affaires juridiques (Tél. 33 3 90 21 46 00 – Fax: 33 3 88 41 27 64 – E-mail: [francine.naas@coe.int](mailto:francine.naas@coe.int))

#### Interpreters

Mr Norman EDWARDS

Mr Didier JUNGLING



**APPENDIX II****AGENDA****A. INTRODUCTION**

1. Opening of the meeting by the Chairman, Ambassador Hilger  
*Draft report of the 17th meeting of the CAHDI (Vienna, 8-9 March 1999)* **CAHDI (99) 15**
2. Adoption of the agenda **CAHDI (99) OJ 2**
3. Communication by the Director of Legal Affairs, Mr De Vel  
*Recent changes concerning Council of Europe treaties* **CAHDI (99) 18**

**B. ONGOING ACTIVITIES OF THE CAHDI**

4. Statement by the President of the European Court of Human Rights (ECHR), Mr Wildhaber, exchange of views with the members of the CAHDI and visit of the ECHR
5. Decisions of the Committee of Ministers concerning the CAHDI
6. The law and practice relating to reservations and interpretative declarations concerning international treaties:  
*Recommendation No. R (99) 13 on responses to inadmissible reservations to international treaties* **R. No. (99) 13**
  - a. 2nd meeting of the Group of experts on Reservations to International Treaties (DI-E-RIT) Strasbourg, 6 September 1999
  - b. Key issues regarding the formulation of Reservations to International Treaties **DI-E-RIT (99) 5**
  - c. European Observatory of Reservations to International Treaties **DI-E-RIT (99) 7**
  - d. Draft specific terms of reference of the DI-E-RIT for 2000 **DI-E-RIT (99) 8**
7. Consideration of conventions under the responsibility of the CAHDI: examination of the European Convention on the abolition of legalisation of documents executed by diplomatic agents or consular officers (ETS 63) **CAHDI (99) 16**
8. Consent by States to be bound by a treaty **CAHDI (99) 21**
9. Presentation of the Report of the Council of Europe's Pilot Project on State practice concerning State succession and issues of Recognition to the Secretary General of the Council of Europe (cf. Item 16 below)

**C. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW**

10. Depositaries of treaties
11. Implementation of international instruments protecting the victims of armed conflicts
12. Developments concerning the International Criminal Court **CAHDI (99) 20**
13. Implementation and functioning of the Tribunals established by UN Security Council Resolutions 827 (1993) and 955 (1994)
14. Protection of Cultural Heritage in times of War
15. The work of the General Assembly of the United Nations and the Sixth Committee, and

the International Law Commission (ILC)

CAHDI (99) Inf. 3

CAHDI (99) Inf. 4

16. The United Nations Decade of International Law, from 1990 to 1999: Centennial of the first International Peace Conference and closure of the United Nations Decade of International Law

D. OTHER

17. Election of the Chair and Vice-Chair of the CAHDI

CAHDI (99) 19

18. Appointment of the Bureau of the CAHDI

CAHDI (99) 17

19. Date, place and agenda of the 19th meeting of the CAHDI

20. Other business

21. Closing

**APPENDIX III**  
**DRAFT SPECIFIC TERMS OF REFERENCE**

1. Name of committee: GROUP OF EXPERTS ON RESERVATIONS TO INTERNATIONAL TREATIES (DI-E-RIT)
2. Type of committee: Committee of Experts
3. Source of terms of reference: Ad hoc Committee of Legal Advisers on Public International Law (CAHDI)
4. Terms of reference:

In the framework of the operation of the CAHDI as a European observatory of reservations to multilateral treaties of significant importance to the international community and of reactions by Council of Europe member States Parties to these instruments, the Group is called upon to:

- a. assist the CAHDI in carrying out the observation procedure;
  - b. examine reservations and interpretative declaration to multilateral treaties of significant importance to the international community;
  - c. bring to the attention of the members of the CAHDI those reservations and interpretative declarations which raise issues as to their admissibility from the point of view of international law and in particular from the human rights perspective;
  - d. prepare reports concerning the admissibility of the above-mentioned reservations and interpretative declarations for the attention of the members of the CAHDI; and
  - e. contribute in any other related manners to the activity of the CAHDI on reservations to international treaties.
5. Membership of the committee:
    - a. All member States may appoint an expert in the Group.
    - b. The Council of Europe bears the travel and subsistence expenses of the Chairman and 7 experts, one from each of the following countries: Croatia, Finland, The Netherlands, Romania, Russian Federation, Spain and Turkey.
    - c. The European Community may appoint a representative without reimbursement of expenses nor right to vote.
    - d. 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 Group: Canada, Holy See, Japan and United States of America.
    - e. Representatives of the following organisations and countries will be invited to take part as observers in the meetings of the Group:
      - Armenia
      - Australia
      - Azerbaijan
      - Bosnia and Herzegovina
      - New Zealand

- United States of Mexico<sup>26</sup>
  - Israel<sup>27</sup>
  - The Hague Conference on Private International Law
  - Organisation for Economic Co-operation and Development (OECD)
  - North Atlantic Treaty Organisation (NATO)
  - The United Nations and its specialised agencies<sup>28</sup>
6. Working structures and methods:
- a. The Group is co-ordinated by Ambassador Magnuson (Sweden).
  - b. In carrying out its terms of reference, the Group may have recourse to specialists.
7. Duration:                      The present terms of reference expire on 31 December 2000.

---

<sup>26</sup> Admitted following decision of the CAHDI (15<sup>th</sup> meeting, Strasbourg, 3-4 March 1998).

<sup>27</sup> Admitted following decision of the CAHDI (17<sup>th</sup> meeting, Vienna, 8-9 March 1999) confirmed by the Committee of Ministers at Deputies level (670<sup>th</sup> meeting, in Strasbourg, 18 May 1999) (CM/Dél/Déc(99)661/10.1).

<sup>28</sup> For specific items at the request of the DI-E-RIT and/or the CAHDI.

**APPENDIX IV****PRELIMINARY DRAFT AGENDA OF THE 19th MEETING****A. INTRODUCTION**

1. Opening of the meeting by the Chairman, Ambassador Hilger
2. Adoption of the agenda
3. Communication by the Director of Legal Affairs, Mr De Vel

**B. ONGOING ACTIVITIES OF THE CAHDI**

4. Contribution of the CAHDI to the celebrations of the 50th anniversary of the European Convention on Human Rights (ECHR): Exchange of views on the implications of the European Convention on Human Rights on the development of Public International Law
5. Decisions of the Committee of Ministers concerning the CAHDI
6. The law and practice relating to reservations and interpretative declarations concerning international treaties :
  - a. 3rd meeting of the Group of experts on Reservations to International Treaties (DI-E-RIT) Berlin, 10 March 2000
  - b. Key issues regarding the formulation of Reservations to International Treaties
  - c. European Observatory of Reservations to International Treaties
7. Consideration of conventions under the responsibility of the CAHDI: examination of the European Convention on Consular Functions (ETS 61)
8. Consent by States to be bound by a treaty
9. Proposal for the setting up of a General Judicial Authority of the Council of Europe

**C. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW**

10. Communication and exchange of views with by the President of the Court on Conciliation and Arbitration, Mr Badinter
11. Implementation of international instruments protecting the victims of armed conflicts
12. Developments concerning the International Criminal Court
13. Implementation and functioning of the Tribunals established by UN Security Council Resolutions 827 (1993) and 955 (1994)
14. Law of the Sea: Protection of Subaquatic Cultural Heritage

**D. OTHER**

15. Election of the Vice-Chair of the CAHDI
16. Date, place and agenda of the 20th meeting of the CAHDI
17. Other business
18. Closing

**APPENDIX V****ABRIDGED REPORT OF THE 18<sup>th</sup> MEETING OF THE CAHDI****Strasbourg, 7- 8 September 1999**

1. The Ad Hoc Committee of Legal Advisers on Public International Law (CAHDI) held its 18th meeting on 7 and 8 September 1999 in Strasbourg. The meeting was chaired by Ambassador Dr Hilger (Germany), Chairman of the CAHDI. The list of participants appears in Appendix I and the agenda appears in Appendix II.
2. The CAHDI was informed by the Director of Legal Affairs, Mr De Vel about recent developments concerning the Council of Europe. Moreover, the CAHDI was informed of the decisions taken by the Committee of Ministers concerning the Committee.
3. The CAHDI held a fruitful exchange of views with the President of the European Court of Human Rights (ECHR), Mr Wildhaber, together with Mr Caflich, Mr Ferrari Bravo and Mr Pastor Ridruejo, members of the ECHR and Mr De Salvia, Register of the ECHR, about the developments concerning the entry into functioning of the new ECHR.
4. The CAHDI presented to the Secretary General, Mr Schwimmer, a Report on the Pilot Project of the Council of Europe on State practice regarding State succession and issues of recognition prepared, under the aegis of the CAHDI, by the Max Planck Institute for Comparative Public Law and International Law (Germany), the T.M.C. Asser Institute (The Netherlands) and the Castrén Institute of International Law and Human Rights (Finland). The CAHDI agreed that this report together with Recommendation No R (99) 13 on responses to inadmissible reservations to international treaties recently adopted by the Committee of Ministers should be forwarded to the United Nations as part of the Council of Europe's contribution to the United Nations Decade of International Law. Following a decision by the Committee of Ministers at the CAHDI's request, Recommendations Nos. R (97) 10 on debts of diplomatic missions, permanent missions and diplomatic missions with "double accreditation", as well as those of their members, and R (97) 11 on the amended model plan for the classification of documents concerning State practice in the field of public international law, have already been forwarded to the Secretary General of the United Nations by the Secretary General of the Council of Europe as part of the Organisation's contribution.
5. The CAHDI was informed about the implementation of the activity on the law and practice relating to reservations to international multilateral treaties currently carried out by the Group of Experts on Reservations to International Treaties (DI-E-RIT). The Chairman of the Group, Ambassador Cede (Austria) informed members of the CAHDI about the second meeting of the Group held in Strasbourg, on 6 September 1999. The CAHDI agreed on the usefulness of pursuing this activity and adopted draft specific terms of reference of the DI-E-RIT for 2000 submitted to the Committee of Ministers for approval (Appendix III). In addition, following the departure of Ambassador Cede (Austria), the CAHDI appointed Ambassador Magnuson (Sweden) as Chairman of the DI-E-RIT.
6. The CAHDI was informed about the implementation of the activity on "Expression of consent by States to be bound by a treaty". Delegations and observer States not having done so were kindly invited to submit their contributions before 31 December 1999.
7. The CAHDI held a thorough exchange of views on the practical importance of the European Convention (ETS 63) and decided to consider the European Convention on Consular Functions (ETS 61) at its next meeting.
8. The CAHDI was informed about developments concerning the implementation of international instruments protecting the victims of armed conflicts, and the implementation and the functioning of the Tribunals established by UN Security Council Resolutions 927 (1993) and 955 (1994).

9. The CAHDI took note of recent developments concerning the adoption of the Statute of the International Criminal Court (ICC) in Rome, July 1998 and considered a Secretariat's proposal for a multilateral Conference to be organised jointly with the European Committee on Crime Problems (CDPC) with a view to a) discussing and ascertaining the obligations for member States arising out of the Rome Statute, and b) examining measures that the Council of Europe might take in order to facilitate co-operation between States and the ICC. The CAHDI supported this proposal and asked the Secretariat to undertake preparatory work.

10. The CAHDI held an exchange of views on the activities and working methods of the Sixth Committee of the General Assembly of the United Nations and the International Law Commission (ILC). In this connection, the CAHDI welcome the consolidation of the links between the CAHDI and the ILC. In this context, the CAHDI examined a non-edited version of the Report of the 51st session of the ILC (Geneva, 3 May – 23 July 1999), obtained as a result of Council of Europe and United Nations inter-secretariat contacts at the CAHDI's request and a Report on the 51st session of the ILC, prepared by Mr. Simma, member of the ILC, for the attention of the members of the CAHDI.

11. In accordance with the provisions of article 17, Appendix II of Resolution (76) 3 of the Committee of Ministers, the CAHDI re-elected Ambassador Dr Hilger (Germany) as Chair for one year. The CAHDI decided to proceed to the election of the vice-chair at its next meeting (see 13. below).

12. The CAHDI considered a proposal relating to the setting up of a Bureau in accordance with the provisions of article 8, appendix II of Resolution (76) 3 of the Committee of Ministers and decided to consider this proposal at a latter meeting.

13. In accordance with the Council of Europe's draft budget, subject to the Committee of Ministers' approval, following Ambassador Hilger's invitation on behalf of the German authorities, the CAHDI decided to hold its 19th meeting in Berlin, on 13 and 14 March 2000 and adopted the preliminary draft agenda that appears in appendix IV. In addition, the CAHDI decided to hold the 3rd meeting of the Group of Experts on Reservations to International Treaties (DI-E-RIT) in Berlin, 10 March 2000, right before the meeting of the CAHDI in order to allow the participation of as many members of the CAHDI as possible in the meeting of the DI-E-RIT.

14. The CAHDI paid tribute to the memory of the late Ambassador Mircea (Romania), former member of the Committee, and congratulated Ambassador Cede (Austria) for his appointment as Ambassador to the Russian Federation thanking him for his significant contribution to the work of the Committee, particularly in the field of reservations to international treaties