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

19th Meeting
Berlin, 13-14 March 2000

ACTIVITIES OF THE CAHDI FOR 1999 AND 2000:
EXPRESSION OF CONSENT BY STATES TO BE BOUND BY A TREATY.

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

Foreword

1. At its 17th meeting (Vienna, *Hofburg*, 8-9 March 1999), the *ad hoc* Committee of Legal Advisers on Public International Law (CAHDI) agreed to updating a report prepared in 1986 by the Committee of Experts on Public International Law (CJ-DI) - predecessor of the CAHDI - under the *aegis* of the European Committee on Legal Co-operation (CDCJ), on the means by which States consent to be bound by a treaty and national procedures relating thereto.

2. The present document was prepared on the basis of the answers submitted by member and observer States to a questionnaire, drafted in 1986, reproduced in Appendix I. The table hereafter contains the state of replies to the questionnaire in 1986 and to date.

3. Proposals on the follow-up of the activity of the Committee will be presented by the Secretariat at the 19th meeting of the CAHDI.

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

APPENDIX I

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

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

12. If so, does the incorporation happen by reason of (and at the time of) the signature not subject to ratification, the ratification, acceptance, approval or accession, or is a separate act of legislative or administrative nature necessary ?
13. What is the legal status of a treaty incorporated into the domestic law of your country ?
14. Does signature of a treaty by your country indicate a firm intention to ratify it ?
15. Is the provisional application of a treaty before its entry into force possible in your legal system and under what conditions ?