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CAHDI (2003) 8

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

**25th meeting
Strasbourg, 17 and 18 March 2003**

MEETING REPORT

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

A. INTRODUCTION

1-3. Opening of the meeting, adoption of the agenda and communication from the secretariat

1. The Committee of Legal Advisors on Public International Law (CAHDI) held its 25th meeting in Strasbourg, on 17 and 18 March 2003. The meeting was chaired by Ambassador Michel (Switzerland), Chair of the CAHDI. The participants are listed in **appendix I**.

2. The agenda (see **appendix II**) was adopted unanimously. The Committee also approved the draft report of the previous meeting (document CAHDI (2002) 16 prov) and authorised the secretariat to post it on the CAHDI website (www.coe.int/cahdi).

3. The Council of Europe's Director for Legal Cooperation, Mr Roberto Lamponi, addressed the Committee.

4. He informed the members of the election to the International Court of Justice of Ambassador Tomka, outgoing Chair of the CAHDI, and of Professor Simma, who had taken part in CAHDI meetings as a special guest, as well as the election to the International Criminal Court of Mr Kaul and Mr Kourula, who had also participated in the work of the CAHDI.

5. Mr Lamponi then reported on developments concerning the Council of Europe which were of interest to the CAHDI, notably:

- the imminent accession to the Council of Serbia and Montenegro, currently under discussion in the Committee of Ministers;¹
- new developments in the fight against terrorism, namely:
 - o adoption on 13 February 2003 of a Protocol amending the European Convention on the Suppression of Terrorism, to be opened for signature at the 112th Session of the Committee of Ministers on 15 May 2003;
 - o the 25th Conference of European Ministers of Justice, on the theme of terrorism, to be held in Sofia (Bulgaria) in October 2003;
 - o enhanced cooperation with other international organisations in relation to the fight against terrorism, under the auspices of the United Nations. On 6 March, a Council of Europe delegation headed by Mr de Vel, Director General of Legal Affairs, had taken part with representatives of regional and international organisations in a special meeting of the UN Security Council's Counter-terrorism Committee;
 - o the initiative by the Parliamentary Assembly of the Council of Europe to produce a general anti-terrorism convention;
- new developments in the fight against money laundering, cybercrime and corruption, namely:
 - o the Committee of Ministers' extension of the terms of reference of the Select Committee of Experts on the Evaluation of Anti-Money-Laundering Measures (MONEYVAL) to cover questions related to the financing of terrorism, in the light of special recommendations by the FATF;
 - o the opening for signature in January 2003 of the Protocol to the Convention on Cybercrime concerning the incrimination of acts of a racist or xenophobic nature committed through computer systems, which had already received 12 signatures;

¹ While this report was in preparation Serbia and Montenegro was admitted to membership of the Council of Europe by decision of the Committee of Ministers on 26 March 2003 at the 833rd meeting of the Ministers' Deputies.

- adoption of the Additional Protocol (on corruption of jurors and arbitrators) to the Criminal Law Convention on Corruption, and the fact that the GRECO was to begin compliance procedure at its forthcoming meetings (on 13 and 24-28 March 2003), in order to assess whether recommendations adopted following the first round of evaluation had been implemented;
- Additional Protocol N° 13 to the European Convention on Human Rights concerning abolition of the death penalty in all circumstances, opened for signature in Vilnius on 3 May 2002, which had already been ratified by nine member states (10 ratifications being required for its entry into force);
- the first meeting of the European Commission for Efficiency of Justice (CEPEJ), during which the CEPEJ adopted its rules of procedure and programme of activities, including as a key topic "The users of the justice system vis-à-vis the slowness of justice";
- the Morgan case in which a US district court in New York had rejected Mr Morgan's application, deeming the Council of Europe to be an "agency or instrumentality of a foreign state". The time limit for appeal against the court's decision having expired on 3 February 2003, Mr Lamponi was pleased to inform the Committee that the matter could be regarded as closed.

6. Mr Lamponi also referred to current CAHDI activities including the pilot project to collect information on state practice regarding state immunities and the immunity of state property, and the European Observatory on Reservations to International Treaties. With regard to the latter activity, he pointed out that, in accordance with the CAHDI's wish, its members would be able to consider both potentially problematic reservations of particular interest and reservations to international treaties concerning the fight against terrorism.

7. Finally he told the Committee that the website for Council of Europe Conventions (<http://conventions.coe.int>) could now be accessed in other European languages including Italian, German and Russian, and invited the members to make use of the CAHDI's own website (www.coe.int/cahdi), which was a tool of key importance to the Committee, containing all its public documents.

B. ONGOING ACTIVITIES OF THE CAHDI

4. Decisions by the Committee of Ministers concerning the CAHDI and requests for CAHDI's opinion

8. The Chair informed the members that the Ministers' Deputies, at their 816th meeting, on 13 November 2002, had approved the CAHDI's specific terms of reference for the period 2003-2004 and had noted the Committee's opinion on the possibility of partial denunciation of the 1963 Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (ETS N° 43), as well as noting generally the abridged report of the CAHDI's 24th meeting.

9. The Chair also reported that, at their 829th meeting, on 26 and 27 February 2003, the Ministers' Deputies had adopted a reply to Parliamentary Assembly Recommendation 1523 (2001) on domestic slavery.

5. Law and practice relating to reservations and interpretive declarations concerning international treaties:

a. European Observatory on Reservations to International Treaties

10. In its role as European Observatory on Reservations to International Treaties, the CAHDI considered a list of declarations and reservations to international treaties, drawing on the document drafted by the secretariat (document CAHDI (2003) 2). The secretariat pointed out that, in accordance with the Committee's request, it had included in part II of the

document (on reservations and declarations concerning Council of Europe conventions) notes on the reservations system provided for by the conventions concerned.

11. The CAHDI began by considering reservations and declarations relating to treaties concluded outside the Council of Europe.

12. The delegate of Switzerland emphasised the importance of Article 3(2) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, signed in New York on 25 May 2000,² which was one of the Protocol's key provisions.

13. With regard to the interpretive declaration by Pakistan of 6 September 2002 to the International Convention for the Suppression of Terrorist Bombings, signed in New York on 15 December 1997,³ the delegates of Spain and France said that their Governments had lodged formal objections because they deemed the declaration to be contrary to the aim and purpose of the Convention. The delegates of Russia, Germany, the United Kingdom, the Netherlands and Sweden then informed the Committee that they too intended to lodge objections in the near future. The delegate of Sweden said that the stance taken by Pakistan was holding up United Nations negotiations on combating terrorism.

14. With regard to Turkey's reservations of 4 June 2002 to the International Convention for the Suppression of Terrorist Bombings, signed in New York on 15 December 1997,⁴ the delegates of Spain, Sweden and the United Kingdom objected to the second reservation on the grounds that the term "international humanitarian law", as used in Article 19 of the Convention, should be interpreted as encompassing rules of customary law included in the Additional Protocols to the Geneva Conventions of 12 August 1949. The delegate of Turkey said that the reservation should certainly not be interpreted as seeking to exclude the relevant provisions of the Protocols, but rather as highlighting the fact that Turkey was not party either to the Protocols or, consequently, to the provisions in question.

15. With regard to the interpretive declaration by the Russian Federation of 10 December 2002 to the International Convention for the Suppression of the Financing of Terrorism, signed in New York on 9 December 1999,⁵ the delegate of Sweden pointed out a degree of

² Article 3(2)

Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment to its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

³ Declaration:

The Government of the Islamic Republic of Pakistan declares that nothing in this Convention shall be applicable to struggles, including armed struggle, for the realisation of the right of self-determination launched against any alien or foreign occupation or domination, in accordance with the rules of international law. This interpretation is consistent with Article 53 of the Vienna Convention on the Law of Treaties of 1969 which provides that an agreement or treaty concluded in conflict with an existing *jus cogen* or pre-emptory norm of international law is void, and the right of self-determination is universally recognised as a *jus cogen*.

⁴ Reservations:

(1) The Republic of Turkey declares that Articles (9) and (12) should not be interpreted in such a way that offenders of these crimes are neither tried nor prosecuted.

(2) The Republic of Turkey declares its understanding that the term international humanitarian law referred to in Article (19) of the Convention for the Suppression of Terrorist Bombings shall be interpreted as comprising the relevant international rules excluding the provisions of Additional Protocols to Geneva Conventions of 12 August 1949, to which Turkey is not a Party. The first part of the second paragraph of the said article should not be interpreted as giving a different status to the armed forces and groups other than the armed forces of a state as currently understood and applied in international law and thereby as creating new obligations for Turkey.

⁵ Declaration:

1. The Russian Federation, pursuant to article 7, paragraph 3, of the Convention, declares that it establishes its jurisdiction over the acts recognized as offences under article 2 of the Convention in the cases provided for in article 7, paragraphs 1 and 2, of the Convention.

ambiguity in paragraph 2 of the declaration, concerning Article 15. He therefore informed the Committee that his Government intended to submit the declaration to close analysis, as there was a possibility that it could subvert other basic provisions of the Convention. Should this be the case, his Government might well decide to object to it.

16. The delegate of the Russian Federation explained that his Government had had no intention of entering a reservation. The declaration in question was intended neither to amend nor to exclude the obligations contained in Article 15 of the Convention; it simply reflected Russia's position that those who perpetrate terrorist crimes must inevitably be held responsible for them. Russia had made the same interpretive declaration in respect of other international instruments, including the 1977 European Convention on the Suppression of Terrorism and the 1957 European Convention on Extradition, and no objections had been raised in these cases. A similar declaration had been formulated in respect of Article 16 of the European Convention on the Suppression of Terrorism as amended by the Protocol due to be opened for signature on 15 May 2003.

17. The delegate of Austria said that, in the light of the points made by the Russian Federation delegate, the declaration seemed acceptable.

18. With regard to the interpretive declaration by Uruguay of 9 July 2002 to the Rome Statute of the International Criminal Court, signed in Rome on 17 July 1998,⁶ the delegates of the Netherlands, Austria, Sweden, Norway, Finland and France voiced concern that the declaration restricted application of the Rome Statute to what was compatible with the Constitution of Uruguay, pointing out that national legislation had to be brought into line with the Rome Statute: they said that the declaration would be closely scrutinised and that objections might well be entered in respect of it.

19. With regard to the interpretive declaration by Thailand of 6 February 2003 to the International Convention on the Elimination of all Forms of Racial Discrimination, signed in New York on 7 March 1966,⁷ the delegates of Switzerland, Germany, France and the Netherlands said that, in so far as the general interpretive declaration might be understood as seeking to limit Thailand's obligations, it constituted a reservation and gave rise to serious concerns. They therefore intended to enter objections in respect of it. The delegate of Germany also pointed out that Thailand's reservation concerning Article 22 of the

2. It is the position of the Russian Federation that the provisions of article 15 of the Convention must be applied in such a way as to ensure the inevitability of responsibility for perpetrating crimes falling within the purview of the Convention, without prejudice to the effectiveness of international cooperation with regard to the questions of extradition and legal assistance.

⁶ Interpretive Declaration:

As a State party to the Rome Statute, the Eastern Republic of Uruguay shall ensure its application to the full extent of the powers of the State insofar as it is competent in that respect and in strict accordance with the Constitutional provisions of the Republic.

Pursuant to the provisions of part 9 of the Statute entitled "International cooperation and judicial assistance", the Executive shall within six months refer to the Legislature a bill establishing the procedures for ensuring the application of the Statute.

⁷ Interpretive Declaration:

General Interpretive Declaration

The Kingdom of Thailand does not interpret and apply the provisions of this Convention as imposing upon the Kingdom of Thailand any obligation beyond the confines of the Constitution and the laws of the Kingdom of Thailand. In addition, such interpretation and application shall be limited to or consistent with the obligations under other international human rights instruments to which the Kingdom of Thailand is party.

Reservations

1. The Kingdom of Thailand interprets Article 4 of the Convention as requiring a party to the Convention to adopt measures in the fields covered by subparagraphs (a), (b) and (c) of that article only where it is considered that the need arises to enact such legislation.

2. The Kingdom of Thailand does not consider itself bound by the provisions of Article 22 of the Convention.

Convention was incompatible with the Convention's purpose because the article in question was one of its key provisions.

20. The CAHDI then considered reservations and declarations relating to Council of Europe treaties.

21. With regard to Azerbaijan's reservation of 15 April 2002 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS N° 5) of 4 November 1950,⁸ the delegate of Austria commented that the reservation in respect of Articles 5 and 6 of the Convention was acceptable. He was unsure, however, about the reservation in respect of Article 10. He pointed out that the relevant provisions in Azerbaijan's national legislation

⁸ According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Articles 5 and 6 to the effect that the provisions of those Articles shall not hinder the application of extrajudicial disciplinary penalties involving the deprivation of liberty in accordance with Articles 48, 49, 50, 56-60 of the Disciplinary Regulations of Armed Forces adopted by the Law of the Republic of Azerbaijan N° 885 of 23 September 1994.

Disciplinary Regulations of Armed Forces adopted by the Law of the Republic of Azerbaijan N° 885 of 23 September 1994 (Official Gazette of the Supreme Council of the Republic of Azerbaijan ("Azerbaijan Respublikasi Ali Sovetinin Melumatı"), 1995, N° 5-6, Article 93)

48. *Soldiers and sailors:*

... d) can be arrested [for] up to 10 days in "hauptvakht" (military prison).

49. *Temporary service ensigns:*

... g) can be arrested [for] up to 10 days in "hauptvakht" (military prison)

50. *Outer-limit service ensigns:*

... g) can be arrested [for] up to 10 days in "hauptvakht" (military prison).

56. *Battalion (4th degree naval) commander has the power:*

... g) to arrest soldiers, sailors and ensigns [for] up to 3 days.

57. *Company (3rd degree naval) commander has the power:*

... g) to arrest soldiers, sailors and ensigns [for] up to 5 days.

58. *Regiment (brigade) commander has the power:*

... g) to arrest soldiers, sailors and ensigns up to 7 days.

59. *Division, special brigade (naval brigade) commanders have the additional powers other than those given to the Regiment (brigade) commanders:*

... g) to arrest soldiers, sailors and ensigns [for] up to 10 days.

60. *Corps commanders, commanders of any type of army, of the different types of armed forces, as well as deputies of the Defence Minister have the power to wholly impose the disciplinary penalties, prescribed in the present Regulations, in respect of soldiers, sailors and ensigns under their charge,*

According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Article 10, paragraph 1, to the effect that the provisions of that paragraph shall be interpreted and applied in accordance with Article 14 of the Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999.

Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999

(Compilation of Legislation of the Republic of Azerbaijan ("Azerbaijan Respublikasının Qanunvericilik Toplusu"), 2000, N° 2, Article 82)

Article 14:

... the establishment of mass media by legal persons and citizens of foreign states in the territory of the Republic of Azerbaijan shall be regulated by interstate treaties concluded by the Republic of Azerbaijan ("legal person of a foreign state" means a legal person of which the charter fund or more than 30% of the shares are owned by legal persons or citizens of foreign states, or a legal person of which 1/3 of founders are legal persons or citizens of foreign states).

The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories of the Republic of Azerbaijan is enclosed).

referred to "the establishment of mass media" and said that, depending on how this expression was interpreted; the reservation in question might go too far.

22. The delegate of Azerbaijan said that the reservation was no more than a clarification with regard to the acquisition of legal personality.

23. With regard to Cyprus's reservation of 26 August 2002 to the European Charter for Regional or Minority Languages (ETS N° 148) of 5 November 1992,⁹ the delegate of Switzerland agreed with the secretariat's analysis, commenting that a clear distinction should be made between the separate and cumulative commitments contained respectively in Parts II and III of the Charter.

b. Reservations and declarations to international treaties applicable to the fight against terrorism

24. The Chair recalled the decisions taken by the Committee of Ministers at Ministers' Deputies level at the 765 bis meeting (in Strasbourg on 21 September 2001) on the Council of Europe's activities in the fight against terrorism. On that occasion the Ministers' Deputies had considered the follow-up to the Committee of Ministers' Declaration of 12 September 2001 on the Fight against International Terrorism and, among other decisions, had instructed the CAHDI, in conjunction with its Observatory on Reservations to International Treaties, to consider the question of reservations to regional and universal conventions relating to terrorism, and to hold exchanges of views – with the involvement of observers – on conventions currently being drafted in the United Nations, with a view to coordinating the positions taken by member states.

25. The Chair noted that, as a result, the CAHDI had agreed to place an item on developments in the fight against terrorism on the agenda for its forthcoming meetings to enable it to be kept informed of activities underway in the various international organisations and of measures taken at national level (see item 12 below), and had also decided to extend the scope of its Observatory on Reservations to International Treaties to include treaties relating to the fight against terrorism.

26. The Chair then referred to the document prepared by the secretariat at the CAHDI's request (document CAHDI (2002) 11 revised) containing an updated account of signatures and ratifications of the most important international treaties applicable to the fight against terrorism, as well as reservations entered in respect of them.

27. The members of the CAHDI thanked the secretariat for the helpful document which provided the latest information on the situation and was instrumental in considering the usefulness of maintaining existing reservations.

⁹ The Republic of Cyprus communicates that it considers the Armenian language to be a non-territorial language, in the Republic, as described in Article 1, paragraph c, of the Charter.

Therefore, in view of Article 7, paragraph 5, of the Charter, the Republic of Cyprus shall apply the following paragraphs chosen from Part III of the Charter to the Armenian language:

Article 8 – Education

Paragraph 1, sub-paragraphs a i., b i., c i.

Article 9 – Judicial Authorities

Paragraph 1, sub-paragraphs a iv., b iii., c iii.

Article 11 – Media

Paragraph 1, sub-paragraph b ii.

Article 12 – Cultural Activities and Facilities

Paragraph 1, sub-paragraphs d, f.

Paragraph 3.

Article 13 – Economic and Social life

Paragraph 1, sub-paragraph c.

28. The delegate of the United Kingdom drew the members' attention to the fact that many reservations and declarations listed in the document were of little or no relevance to the CAHDI. That being so, he wondered whether the secretariat should not omit those which were of no interest to the Committee.

29. The delegate of Sweden pointed out that, to achieve this, the Committee would have to give the secretariat instructions on which reservations to retain in the document and which to drop.

30. The secretariat also made the point that the document in question provided an update on reservations to conventions applicable to the fight against terrorism, whether or not they might be the focus of objections. If they were, they would also be included in the general document on the European Observatory on Reservations to International Treaties.

31. With regard to the interpretive declaration by Pakistan of 6 September 2002 on the International Convention for the Suppression of Terrorist Bombings, signed in New York on 15 December 1997, the delegate of Austria referred to his Government's firm position on the declaration, which had already been discussed under item 5a of the agenda (see paragraph 13 above).

32. The delegate of Switzerland told the Committee that his country was currently a party to 10 of the 12 conventions and protocols concerned with the fight against terrorism. He also reported that, as the relevant parliamentary procedure was under way, Switzerland would expect to be in a position to ratify the two remaining conventions – the International Convention for the Suppression of Terrorist Bombings (signed in New York on 15 December 1997) and the International Convention for the Suppression of the Financing of Terrorism (signed in New York on 9 December 1999) – in summer 2003.

33. The CAHDI concluded consideration of this item by deciding to keep it on its agenda. The Chair invited the delegations to indicate to the secretariat those reservations that ought to be considered more closely at the CAHDI's next meeting.

6. Council of Europe pilot project on state practice regarding immunities

34. The Chair recalled that at its 21st meeting (in Strasbourg on 6 and 7 March 2001) the CAHDI had decided to carry out an activity entitled "Pilot project of the Council of Europe on state practice regarding state immunities" focusing particularly, although not exclusively, on practice in the member states of the Council of Europe with a view to collecting the most relevant judicial decisions involving foreign states and their property.

35. The secretariat told the CAHDI that, to date, contributions had been submitted by Austria, Croatia, Cyprus, Belgium, the Czech Republic, Finland, Greece, Ireland, Italy, Norway, the Netherlands, Poland, Portugal, the Russian Federation, Slovakia, Spain, Sweden, Switzerland and the United Kingdom.

36. The delegates of France, Germany, Iceland, Bulgaria and Romania informed the Committee that they would be submitting their contributions shortly.

37. The delegate of Russia suggested that information on this subject should continue to be compiled even after completion of the pilot project, although the deadline for submission of contributions to the pilot project should be kept. He said a compilation of information on the role of Council Europe member states' Ministries of Foreign Affairs in judicial proceedings concerning state immunities would also be very useful.

38. The delegate of Austria stressed the importance of the pilot project and wondered whether it might not be useful to set up some form of observatory of judicial immunities. He also hoped that governments would supply information on their procedures for taking legal action against states.

39. The delegates of Spain and Sweden told the Committee that new contributions might be added to the pilot project and existing contributions expanded before the deadline at the end of June 2003.

40. The delegate of the United Kingdom supported the secretariat's proposal on the deadline and the idea of an analytical report. He also notified the Committee members that, in September next, the United Kingdom was to discuss the proposal on state immunities drawn up under United Nations auspices. He hoped that a discussion on the European Convention on State Immunity would take place once the United Nations had finished its work on the question.

41. The Chair set the deadline for submission of contributions as 30 June 2003 and urged those states that had not already done so to forward their contributions without delay. He concluded by instructing the secretariat to take the necessary steps to compile an analytical report.

C. GENERAL ISSUES CONCERNING PUBLIC INTERNATIONAL LAW

7. Exchange of views with Mr Gil-Robles, Council of Europe Commissioner for Human Rights

42. The Chair welcomed Mr Gil-Robles and thanked him for agreeing to take part in the meeting to exchange views with members of the CAHDI on the activities of the Commissioner for Human Rights at the Council of Europe.

43. Mr Gil-Robles thanked the CAHDI for inviting him to participation in the meeting.

44. The idea of instituting the office of the Council of Europe Commissioner for Human Rights was first approved at the Summit of Heads of State and Government held in Strasbourg in October 1997 and the resolution setting out the Commissioner's terms of reference was adopted, after being debated by the Parliamentary Assembly, at the 104th session of the Committee of Ministers held on 6 and 7 May 1999 in Budapest.

45. The Commissioner for Human Rights is elected by the Parliamentary Assembly, by a majority of votes cast, from a list of three candidates drawn up by the Committee of Ministers; the Commissioner is elected for a non-renewable term of office of six years. Candidates must be nationals of Council of Europe member State and have recognized expertise in the field of human rights.

46. 1. The fundamental objectives of the Commissioner for Human Rights are laid out in "Resolution (99)50 on the Council of Europe Commissioner for Human Rights, which was adopted by the Committee of Ministers on 7 May 1999, at its 104th Session in Budapest. The Resolution requires that the Commissioner

- promote education in and awareness of human rights in the member States;
- identify possible shortcomings in the law and practice of member States with regard to compliance with human rights;
- help promote the effective observance and full enjoyment of human rights, as embodied in the various Council of Europe instruments.

47. The Commissioner is a non-judicial institution which does not take up individual complaints. He cannot, therefore, accept any requests to present individual complaints before national or international courts, nor before national administrations of member States of the Council of Europe. Nevertheless, he can draw conclusions and take initiatives of a general nature that are based on individual complaints.

48. The Commissioner is to encourage action by, and work actively with, all national human rights structures and national ombudsmen or similar institutions. The Commissioner is to co-operate also with other international organisations for the promotion and protection of human rights.

49. In performing his duties, the Commissioner may directly contact the governments of Council of Europe member States, which must facilitate the independent and effective performance by the Commissioner of his functions.

50. Respecting the above-mentioned requirements, and in addition to other initiatives, the Commissioner's principle activities include:

- Official visits and Contacts visits: Pursuant to his mandate to 1) identify short-comings in the legislation and practice of member States and 2) to promote the effective observance of human rights, Commissioner for Human Rights effects visits to member States with the purpose of either gaining an overall view of the human rights situation in that country or examining an issue or area of particular concern. Visits are effected either on the invitation of the member State in question or on the initiative of the Commissioner and usually involve meetings with senior government officials, representatives of civil society and the inspection of sites tending to the undermining of human rights. The Commissioner makes recommendations on how the respect for human rights might be improved in certain areas. The Commissioner for Human Rights will discuss his conclusions and recommendations with the Ministers he meets with and again in the resulting visit report, which is submitted to the Committee of Ministers and the Parliamentary Assembly of the Council of Europe and subsequently made available to the public.
- Seminars: The Commissioner organises seminars and conferences with the dual aims of promoting education in and awareness of human rights and maintaining the necessary working links with other human rights related structures and organisations. To date annual meetings have been held with NGO's and religious authorities, to which other interested parties such as the relevant government officials and representatives of international governmental organisations, have also been invited to discuss specific problems of concern. The Commissioner also organises meetings with the national ombudsmen of Council of Europe member States with a view to maintaining close and beneficial relations with important partners in the protection of human rights.
- Recommendation: The seminars and visits organised by the Commissioner may give rise, independently or in combination, to Recommendations addressed not to one member State in particular, but all those affected by a particular widespread problem.
- Opinions: The Commissioner may give opinions, whether on the request of national bodies or on his own initiative, whether relating to draft laws or specific practices, which will tend to be more technical in nature than recommendations.

51. Mr. Gil-Robles recalled recent developments concerning his institution and among them the request of the Parliamentary Assembly to re-examine the situation in Kosovo.

52. He concluded his intervention by pointing out that the institution has good future prospects, in particular underlining its contribution to consolidating the system of the European Convention on Humans Rights. He underlined that this is only possible if his institution is equipped with the necessary manpower to be able to effectively discharge its missions.

53. The members of the CAHDI agreed to affirm the importance of the institution represented by Mr Gil-Robles, in particular o its complementarity with Council of Europe action for the protection of human rights.

54. The delegate of Spain expressed his appreciation for the Commissioner's work by evoking his visit to Spain and his report on the Basque Country and stressed that the necessary means should be placed at the disposal of the Office of the Commissioner.

55. The delegate of Italy referred to the proposals for reform of the European Court of Human Rights and wondered whether the Commissioner, or even the CAHDI, could be asked for an opinion.

56. Mr Gil-Robles pointed out that although his Office closely follows developments concerning this question, it must remain independent.

57. In this connection, the delegate of France referred to the Steering Committee on Human Right and recalled the establishment of a committee for the development of human rights for respect of these rights in crisis situations. This committee works, in particular, on the setting-up of a mechanism to establish the facts of violations of human rights. In this respect, the delegate of France warned of the risks of duplication of existing mechanisms of protection of international humanitarian law and invited the CAHDI to clarify the situation in view of its great experience in this field.

58. Mr Gil-Robles agreed with this intervention and underlined that rather than create new mechanisms, it would be better to maintain those which already exist, including the Commissioner for the Human Rights.

59. The delegate of the Slovak Republic recalled the question of the possibility for the Commissioner to intervene in cases before the European Court of Human Rights in his capacity as *amicus curiae*

60. In this respect, Mr Gil-Robles noted that the original draft aiming at the establishment of the Commissioner for Human Rights submitted by Finland envisaged this possibility, but it was later removed on the grounds that there might be interference with the work of the Court.

61. The observer of Mexico referred to Article 8.2 of Resolution (99) 50 and wondered whether the publication of a report is equivalent to a sanction.

62. In this respect, Mr Gil-Robles confirmed that all the reports by the Commissioner are public because they are submitted to the Parliamentary Assembly and to the Committee of Ministers of the Council of Europe. The question of sanctions therefore does not arise.

63. The President thanked Mr. Gil-Robles and concluded the examination of this item by underlining the usefulness of the exchange of views with the members of the CAHDI.

8. Exchange of views with Mr Mikulka, Director of the Codification Division at the UN Secretariat General

64. The Chair welcomed Mr Mikulka and thanked him for agreeing to take part in the meeting in order to exchange views with the members of the CAHDI on the UN's codification activities.

65. Mr Mikulka thanked the CAHDI for inviting him to participate in the meeting and for the importance attached by the Council of Europe to codification, which contributed significantly to the legal basis for international cooperation.

66. He then addressed the Committee. His address is reproduced in **appendix III**.

67. The delegate of Finland asked, with regard to the work of reporting on terrorism-related questions, whether a certain level of cooperation existed between the Codification Division and the relevant committees of the Security Council secretariat, for example the Counter-terrorism Committee (CTC), given that states had to supply information both to the Secretary General and to the other committees.

68. Mr Mikulka told the Committee that various coordinating measures had been taken in this area and that the Codification Division was to collect the information contained in reports to the CTC which is relevant for its publication. It was also possible that states would wish to supply additional information for this purpose to the Codification Division without being required to make a report to the CTC.

69. The Chair concluded discussion of this item and thanked Mr Mikulka for attending.

9. Implementation of international instruments protecting the victims of armed conflicts

70. The delegate of Switzerland told the Committee that an international conference of governmental and non-governmental experts had been held in Geneva from 19 to 21 February 2003. The conference was part of a process initiated by the International Committee of the Red Cross (ICRC) on the theme of missing persons and specifically people unaccounted for as a result of armed conflict or internal violence. The ICRC had launched the initiative, entitled "The Missing", in an attempt to address the tragic problem of missing persons and to assist their families.

71. He said the process had two overall aims, one internal, the other external. *Internally*, the resources and methods used by the ICRC to tackle the problem of people unaccounted for were being studied with a view to achieving greater effectiveness. *Externally*, the ICRC's objective in launching the process, in cooperation with all the agencies concerned with missing persons, was to review the full range of methods that might potentially be used to prevent disappearances more effectively, to meet the needs of families who had lost trace of a family member, to agree a common set of practices with all those working to prevent disappearances, to offer a more satisfactory response to the problems of people unaccounted for, and to give greater priority to this question, which was a live issue for governments, the United Nations and non-governmental organisations.

72. The delegate of Switzerland went on to report that, on 21 February 2003, the conference held as part of the ICRC process had adopted a document entitled *Observations and Recommendations*, proposing measures not only for *preventing* disappearances but also for helping to *clarify* the fate of persons unaccounted for. The document also covered information management and the processing of files on persons unaccounted for, the management of human remains and of information on the dead and, lastly, support for families.

73. In conclusion, he said that the conference had served to promote awareness within governments, armed forces and national and international organisations – as well as public awareness – about the problem of people unaccounted for, with a view to committing all those concerned to assume the full extent of their responsibilities.

74. The delegate of Spain suggested that a document be compiled summarising work on this question at global level, i.e. by the United Nations, the ICRC and the Swiss Government in its capacity as depositary of the Geneva Conventions and their Additional Protocols.

75. The delegate of Mexico informed the Committee of the establishment, on 12 March 2003, of an inter-ministerial committee on the observance of international obligations in relation to human rights and humanitarian law.

10. Developments concerning the International Criminal Court

76. The Chair welcomed Mr Kourula and congratulated him on his election to the post of judge at the International Criminal Court (ICC).

77. Mr Kourula told the Committee that the Prosecutor of the ICC was due to be elected in April 2003 and ought therefore to take up office in early June. He also said that no decision had yet been taken on which judges would serve full time. He went on to emphasise the importance of bringing national legislation into line with the requirements of the Rome Statute, and of overcoming certain states' misgivings about the new institution – misgivings that were preventing them from ratifying the Statute.

78. The delegate of Spain notified the Committee of recent progress with implementation of the Rome Statute in Spain. He said that a bill on cooperation with the ICC was due to come before Parliament shortly and he hoped it would have become law by the time the ICC was operational. He also informed the Committee about ambitious plans to reform the Spanish Penal Code, under which many provisions would be amended in the light of the Rome Statute's requirements, including, for example, the concept of crimes against humanity, which featured in Chapter 3 of the Statute. He further reported that ratification of

the agreement on privileges and immunities of the ICC was in preparation. In conclusion, he said he felt it would be useful to hold a fresh consultation meeting on the ICC, along the lines of those that had already taken place in 2000 and 2001.

79. The delegate of Germany said there was some imbalance in the initial distribution of judges' posts in the ICC. He felt that the countries of Central and Eastern Europe ought to have been more strongly represented. The utmost importance should be attached to the election of the Prosecutor, in April 2003, with a view to ensuring that all the world's different judicial systems were represented in the ICC. He therefore urged as many countries as possible to nominate candidates for the post of Prosecutor.

80. The delegate of Mexico informed the Committee of progress towards ratification of the Rome Statute in Mexico. A draft Constitutional amendment was currently being processed in order to resolve incompatibility between the Statute and Article 23 of the Mexican Constitution. The Senate having rejected the draft amendment because it was uneasy about the concept of the international court, a broader form of words had now been adopted. The new wording empowered the Federal Government, subject to the Senate's approval in each case, to recognise the jurisdiction of the ICC. Each case would thus have to be considered individually and the Senate's approval would be required each time. The delegate was of the opinion that the Rome Statute would be ratified before the end of the current year, once the Mexican Congress had approved the Constitutional amendment. He concluded by thanking the Council of Europe and its member states for their support.

81. The delegate of Canada emphasised the importance of the Prosecutor's role at the ICC and voiced support for efforts to have the Rome Statute ratified and implemented. He, too, felt that a new round of multilateral consultation on the ICC could be useful.

82. The delegate of the Netherlands told the Committee that plans were afoot there for the construction of a new building for the ICC. It ought to be ready in 7-8 years' time. He added that he hoped the Prosecutor would be elected by consensus.

83. The delegate of Japan told the members of the CAHDI that a group of 11 experts from the European Union had visited his country in December 2002 in connection with the ICC.

84. The delegate of Israel recalled the relationship between the universal jurisdiction and the national common law in this field.

85. The delegate of Belgium told the Committee that his country needed to amend its national law on genocide which provided for very broad general jurisdiction.

86. The delegate of Italy strongly supported the idea of a third round of multilateral consultation on the ICC, provided that all relevant agencies and departments were involved.

87. The delegate of the Czech Republic told the members of the Committee that there was incompatibility between the Czech Constitution and the Rome Statute. A Constitutional amendment was thus required so that the Statute could be ratified. The Government was due to approve a new draft of the amendment in May, for submission to Parliament in July or August 2003.

88. The delegate of Moldova reported that there was a similar problem in his country. In early March, however, the President of Moldova had undertaken to have a new Constitution drawn up, which would obviously be compatible with the Rome Statute.

89. The delegate of Sweden voiced support for a third round of multilateral consultation on the ICC.

90. Mr Kourula also said he supported a new round of consultation and he thanked the delegations for their comments.

91. The secretariat told the members of the Committee that a third round of multilateral consultation on the ICC ought to be held in the last quarter of the current year.

92. The Chair offered his best wishes to the newly elected ICC judges, thanked the delegations for the information they had supplied and concluded consideration of this item by noting how important it was that the CAHDI should continue to study developments affecting the ICC.

11. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)

93. The delegate of Italy queried whether, given the establishment of the International Criminal Court, the tribunals ought not to be reviewed.

12. The fight against terrorism – information about work undertaken in the Council of Europe and other international forums

94. The secretariat informed the members of the CAHDI about developments regarding Council of Europe activities in this field, notably the fact that the Multidisciplinary Group on International Action against Terrorism (GMT) had fulfilled its specific terms of reference by submitting a report to the Committee of Ministers on the Council of Europe's priority activities in relation to the fight against terrorism, and adopting a draft protocol amending the European Convention on the Suppression of Terrorism.

D. OTHER

13. Election of the Vice-Chair for 2003

95. The Chair had proposed that election of the Vice-Chair of the CAHDI be deferred to the Committee's 26th meeting because many of the legal advisors who regularly participated in CAHDI meetings were absent due to the crisis situation in Iraq and the imminent likelihood of armed conflict in that region.

14. Date, place and agenda of the 26th meeting of the CAHDI

96. The CAHDI decided to hold its 26th meeting in Strasbourg on 18 and 19 September 2003 but to allow other proposals.

97. The delegate of Moldova proposed that the meeting be held in Chisinau in view of the fact that Moldova was about to take over the Chair of the Committee of Ministers of the Council of Europe.

98. The CAHDI decided to invite Mr Philippe Kirsch, President of the International Criminal Court, for an exchange of views.

99. The delegates of Italy and Germany proposed that the question of reform of the European Court of Human Rights be included on the agenda for the 26th meeting.

100. The delegate of the United Kingdom felt that the main subject of discussion at the 26th meeting ought to be state immunities, particularly in view of the fact that the CAHDI meeting was due to take place just before a meeting of the United Nations' 6th Committee.

101. The Chair supported this idea with a view to avoiding overlap between different international instruments in this field.

102. The CAHDI adopted the preliminary draft agenda which appears in **appendix IV**.

15. Other business

103. Before closing the meeting, the Chair of the CAHDI made a statement, the text of which appears in **appendix V**.

104. The abridged report of the meeting appears in **appendix VI**.

Appendix I
List of participants

ALBANIA/ALBANIE:

Mrs Ledia HYSI, Director of the Legal and Consular Department, Ministry of Foreign Affairs

ANDORRA/ANDORRE:

Mrs Iolanda SOLA, Legal Adviser, Ministry of Foreign Affairs

ARMENIA/ARMENIE:

Mrs Nelly SAROYAN, Head of International Treaties Desk, Legal Department, Ministry of Foreign Affairs

AUSTRIA/AUTRICHE:

Mr. Hans WINKLER, Ambassador, Legal Adviser, Federal Ministry of Foreign Affairs

AZERBAIJAN/AZERBAIDJAN:

Mr. Rashad ASLANOV, International Law and Treaties Department, Ministry of Foreign Affairs

BELGIUM/BELGIQUE:

M. Jan DEVADDER, Directeur Général des Affaires Juridiques, Ministère des Affaires Etrangères, du Commerce extérieur et de la Coopération internationale

Mme Anne-Marie SNYERS, Conseiller Général, Service public fédéral Affaires Etrangères, Direction Générale des Affaires Juridiques

BOSNIA AND HERZEGOVINA/BOSNIE HERZEGOVINE**BULGARIA/BULGARIE:**

Ms Guenka BELEVA, Head of the Public International Law Department, Ministry of Foreign Affairs

CROATIA/CROATIE:

Mrs. Andreja METELKO-ZGOMBIĆ, Head of the International Law Department, Ministry of Foreign Affairs

CYPRUS/CHYPRE:

Mrs Georghia EROTKRITOU, Attorney of the Republic, Attorney General's Office

CZECH REPUBLIC/REPUBLIQUE TCHEQUE:

Mr Tomáš BOČEK, Head of the International Public Law Section, International Law Department, Ministry of Foreign Affairs

DENMARK/DANEMARK:

Mr Hans KLINGENBERG, Ambassador, Head of the Legal Service, Ministry of Foreign Affairs

ESTONIA/ESTONIE:

Mrs. Marina KALJURAND, Deputy Under-Secretary of the Legal Department, Ministry of Foreign Affairs

FINLAND/FINLANDE:

Mr. Erkki KOURULA, Ambassador, Director general for Legal Affairs, Ministry of Foreign Affairs

Mrs Marja LEHTO, Director, Ministry of Foreign Affairs

FRANCE:

Mr. Denys WIBAUX, Sous-directeur de droit international public général, Ministère des Affaires étrangères, Direction des Affaires Juridiques

GEORGIA/GEORGIE:

Mr. Theimouraz BRAKRADZE, Director, Council of Europe and Human Rights Division, International Law Department, Ministry of Foreign Affairs

GERMANY/ALLEMAGNE:

Dr Thomas LÄUFER, Legal Adviser, Director General for Legal Affairs, Federal Foreign Office

Mrs. Suzanne WASUM-REINER, Head of Division of Public International Law, Ministry of Foreign Affairs

GREECE/GRECE:

Mr Michael STELLAKATOS-LOVERDOS, member du Service juridique spécial, Ministère des Affaires Etrangères

HUNGARY/HONGRIE:

Dr Istvan GERELYES, Deputy Director, International Law Department, Ministry of Foreign Affairs

Dr Tamas CSABA, Legal Officer, International Law Department, Ministry of Foreign Affairs

ICELAND/ISLANDE:

Mr Tomas H. HEIDAR, Legal Adviser, Ministry for Foreign Affairs

IRELAND/IRLANDE:

Mr James KINGSTON, Deputy Legal Adviser, Department of Foreign Affairs

ITALY/ITALIE:

Mr Umberto LEANZA, Head of the Legal Service, Ministry for Foreign Affairs

Dr Federica MUCCI, Expert of the Legal Service, Ministry for Foreign Affairs

LATVIA/LETTONIE:

Mr Raimonds JANSONS, Director of the Legal Department, Ministry of Foreign Affairs

LIECHTENSTEIN: Apologised/Excusé

MOLDOVA:

Mr Eugen REVENCO, Director of International Law and Treaties General Department, Ministry of Foreign Affairs

NETHERLANDS/PAYS-BAS:

Mr Johan LAMMERS, Legal Adviser, International Law Division, Ministry of Foreign Affairs

NORWAY/NORVEGE:

Mr Ståle T. RISA, Deputy Director General, Department for Legal Affairs, Ministry of Foreign Affairs

Mr Inge TIGESSEN, Department for Legal Affairs, Ministry of Foreign Affairs

POLAND/POLOGNE:

Mr Remigiusz HENCZEL, Director of Legal and Treaty Department, Ministry of Foreign Affairs

PORTUGAL:

Mrs Margarida REI, Director of the Legal Department, Ministry of Foreign Affairs

ROMANIA/ROUMANIE:

M. Bogdan AURESCU, Director General for Legal Affairs, Ministry of Foreign Affairs

Mlle Irina-Elena DONCIU, Head of Service, International Law and Treaties Division, Ministry of Foreign Affairs

RUSSIAN FEDERATION/FEDERATION DE RUSSIE :

Mr Roman KOLODKIN, Director of the Legal Department, Ministry of Foreign Affairs

SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE:

Mr Igor GREXA, General Director, Direction of International Law and Consular Affairs, Ministry of Foreign Affairs

SLOVENIA/SLOVENIE:

Mrs Meta BOLE, Head of the International Law Department, Ministry of Foreign Affairs

SPAIN/ESPAGNE:

M. Juan Antonio YANEZ BARNUEVO, Chef du Département Juridique international, Ministère des Affaires Extérieures

M. Maximiliano BERNAD ALVAREZ DE EULATE, Professeur de Droit international public et d'Institutions et droit communautaire européens, Université de Zaragoza

SWEDEN/SUEDE:

Mr Bosse HEDBERG, Director, International Law and Human Rights Department, Ministry for Foreign Affairs

SWITZERLAND/SUISSE:

M. Nicolas MICHEL, (**Chairman/Président**), Ambassadeur, Directeur de la Direction du Droit International Public, Département fédéral des Affaires Etrangères

M. Jürg LINDENMANN, Suppléant du Jurisconsulte, Direction du Droit international public, Département fédéral des affaires étrangères

"THE FORMER REPUBLIC YUGOSLAV OF MACEDONIA/L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE":

Mr Blagoj ZAŠOV, Directeur du département du droit international, Ministère des Affaires Extérieures

TURKEY/TURQUIE:

Mr Ozbay MEHMET AYDIN, Legal Adviser, Ministry of Foreign Affairs

Mr Aydin Sefa AKAY, Legal Counsellor, Permanent Representation of Turkey to the Council of Europe, Strasbourg

UKRAINE: Mr Olexandre KUPCHYSHYN, Director General, Legal and Treaty Department, Ministry of Foreign Affairs

UNITED KINGDOM/ROYAUME-UNI:

Mr Christopher WHOMERSLEY, Deputy Legal Adviser, Foreign and Commonwealth Office

Mr Chanaka WICKREMASINGHE, Legal Researcher, Foreign and Commonwealth Office

SPECIAL GUESTS/INVITES SPECIAUX

Mr Vaclav MIKULKA, Director of Codification, Office of Legal Affairs, Secretariat General of the UN, UNITED NATIONS, NEW YORK.

Mr Alvaro GIL-ROBLES, Commissioner for Human Rights of the Council of Europe, Palais de l'Europe, STRASBOURG

EUROPEAN COMMUNITY/COMMUNAUTE EUROPEENNE**EUROPEAN COMMISSION/COMMISSION EUROPEENNE:**

M. Esa PAASIVIRTA, BRUXELLES

OBSERVERS/ OBSERVATEURS**CANADA:**

Mr Robert HAGE, Director General, Legal Affairs Bureau, Department of Foreign Affairs and International Trade, OTTAWA

HOLY SEE/SAINT-SIEGE: Apologised/Excusé

JAPAN/JAPON:

M. Naoki ONISHI, Consul, Consulat Général du Japon, Strasbourg

M. Pierre DREYFUS, Assistant, Consulat Général du Japon, Strasbourg

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE:

Mr Robert E. DALTON, Assistant Legal Adviser for Treaty Affairs – Department of State

MEXICO/MEXIQUE:

Mr Juan Manuel GOMEZ ROBLEDO, Legal Counsel, Ministry of Foreign Affairs

Mr Carlos SALAZAR-DIEZ DE SOLLANO, Deputy Permanent Observer of Mexico to the Council of Europe, Strasbourg

ISRAEL/ISRAËL:

Mr Har'el BEN-ARI, Senior Legal Officer, Embassy of Israel, The Hague

NATO/OTAN:

Mr Baldwin DE VIDTS, Service juridique, Bruxelles

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

Apologised/Excusé

SECRETARIAT GENERAL**DIRECTORATE GENERAL OF LEGAL AFFAIRS/DIRECTION GENERALE
DES AFFAIRES JURIDIQUES**

M. Roberto LAMPONI, Director for Legal Co-operation/Directeur de la Coopération Juridique

Mr Alexey KOJEMIAKOV, Head of the Department of Public Law/Chef du Service du droit public

Mr Rafael A. BENITEZ, Secretary of the CAHDI/Secrétaire du CAHDI, Deputy Head of the Department of Public Law/ Chef adjoint du Service du Droit public

M. Jörg POLAKIEWICZ, Deputy Head of Legal Advice Department and Treaty Office/Adjoint au Chef du Service du Conseil Juridique et Bureau des Traités

M. Volodymyr KUPCHYSHYN, Trainee with the Department of Public Law/Stagiaire au Service du droit public

Mme Francine NAAS, Assistant/Assistante, Department of Public Law/Service du Droit public

Mme Frédérique BONIFAIX, Assistant/Assistante, Department of Public Law/Service du Droit public

INTERPRETES

Mme Angela BREWER

Mme Monique PALMIER

Mr Philippe QUAINÉ

Appendix II

Agenda

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Appendix III

Statement by Mr Mikulka Director, Codification Division - Office of Legal Affairs

The Codification Division of the Office of Legal Affairs is responsible for the United Nations subprogram 3, namely codification and progressive development of international law. The general responsibilities of the Codification Division of the Office of Legal Affairs are set up by the medium term plan. They are:

- *Facilitation of the progressive development and codification of international law* by providing relevant United Nations bodies with substantive support,
- *Promotion of the universal acceptance and implementation of instruments* emanating from codification efforts (assistance to the Sixth Committee when considering the status of relevant conventions in order to enhance their broader acceptance and compliance with their provisions)
- *Encouragement and facilitation of the dissemination and wider appreciation of international law*, through the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

Codification Division provides substantive support, including, research on different topics of international law, compilation of background documentation, preparation of draft reports of the bodies concerned, legal advice and assistance in the conduct of proceedings, in the drafting of resolutions and decisions to a number of legal bodies, namely to the Sixth Committee, International Law Commission, Ad hoc Committee on Jurisdictional Immunities of States, Ad hoc Committee on Scope of Protection under UN Personnel Convention, Ad hoc Committee established by GA resolution 51/210 of 17 February 1996 (on International Terrorism), Special Committee on the UN Charter and the Assembly of States Parties of the ICC. In 2002 substantive servicing to these bodies amounted to 31 weeks; research work and preparation of numerous documents and reports represented still another challenge. In 2003 the pattern of the meetings will be similar – with the exception of the *Ad hoc Committee on Convention against reproductive cloning of human beings*.

*

Assembly of States Parties – held elections of Judges in early February 2003. Inauguration of the ICC took place on 11 March in the Hague. Next meeting of the Assembly will be held in New York, mainly to elect the Prosecutor and the members of the Committee on Budget and Finance. During the nomination period for the Prosecutor (September – early December) no nomination was received. It is our understanding that the States Parties are still considering the matter informally with a view to proposing a candidate who would have the support of all regional groups. The nomination period will be reopened on 24 March until 4 April 2003. The election of the Prosecutor will be held at the second resumption of the first session, from 21 to 23 April 2003. For 12 seats on the *Committee on Budget and Finance* only 9 nominations for candidates have been submitted at the close of the extended period on 7 March 2003. Accordingly, the President of the Assembly informed States Parties, by a letter dated 7 March that an insufficient number of nominations had been received, and he further extended the period for submission of nominations from 7 March to 21 March 2003. The Committee on Budget and Finance will meet in August 2003 in New York and will be serviced by the Codification Division, which assumes functions of the provisional *Secretariat* of the Assembly of States Parties of the ICC, its Bureau and the established subsidiary bodies. The Division also has *custody of the archives* of the Rome Conference and of the Preparatory Commission. These functions will be transferred to the permanent Secretariat in The Hague later this year.

*

Ad hoc Committee on Jurisdictional Immunities of States - Under the chairmanship of Prof. Hafner of Austria, the Committee successfully completed its work. As you are aware, the General Assembly by its resolution 57/16 of 19 November 2002 decided to reconvene the Ad Hoc Committee with the mandate to make a *final attempt* at consolidating areas of agreement and resolving outstanding issues with a view to elaborating a generally acceptable instrument based on the draft articles on jurisdictional immunities of States and their property adopted by the International Law Commission at its forty-third session and also on the discussions of the open-ended working group of the Sixth Committee and the Ad Hoc Committee and their results, as well as to recommend a form for the instrument. Outstanding issues included:

- The criteria for determining the commercial character of a contract or transaction under paragraph 2 of article 2;
- Concept of a State enterprise or other entity in relation to commercial transactions under paragraph 3 of article 10;
- Contracts of employment under article 11;
- Pending issues relating to articles 13 and 14
- Pending issues relating to effect of an arbitration agreement under article 17; and
- Issues concerning measures of constraint against State property under article 18.

There were also issues concerning criminal proceedings in the context of the draft articles, as well as the relationship of the draft articles with other agreements.

Informal consultations on definition of commercial contracts in article 2, paragraph 2 were coordinated by Ambassador Chusei Yamada (Japan). Informal consultations on the question of State enterprises in article 10, paragraph 3, article 11, as well as criminal proceedings in the context of the draft articles, and the relationship of the draft articles with other agreements were coordinated by Mr. Michael Bliss (Australia). Informal consultations on questions concerning articles 13, 14, 17 and issues concerning measures of constraint against State property under article 18 were coordinated by Prof. Hafner.

The full text of draft articles and understandings are contained in the Report of Ad hoc Committee to the General Assembly. As far as the final form is concerned, the Ad hoc Committee referred the matter back to the General Assembly.

*

Ad hoc Committee established by GA resolution 51/210 of 17 December 1996 (on International Terrorism) - By its resolution 57/27 of 19 November 2002, the General Assembly reaffirmed the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996, namely to continue the elaboration of a draft comprehensive convention on international terrorism, and draft international convention for the suppression of acts of nuclear terrorism. The Committee also keeps on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism. The work of the Ad Hoc Committee shall continue during its seventh session, to be held from 31 March to 2 April 2003.

*

Certainly you are aware, that the Security Council recently held, on 20 January 2003, a special meeting on combating terrorism at the level of Ministers of Foreign Affairs. The main objective of that high-level meeting was to give new impetus to the struggle against terrorism. As a result of this ministerial meeting, the Security Council adopted resolution 1456 (2003) of 20 January 2003, to which was annexed the Declaration on the issue of combating terrorism. In that Declaration, the Security Council calls for a number of steps to be taken by all States. Among those steps, States are called on to become a party, as a matter of urgency, to all relevant international conventions and protocols relating to terrorism, to assist each other, to the maximum extent possible, in the prevention, investigation, prosecution and punishment of acts of terrorism, wherever they occur and to bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens, in accordance with international law, in particular on the basis of the principle to extradite or prosecute. Furthermore, States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and they should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law. The Declaration also calls on international organizations to evaluate ways in which they can enhance the effectiveness of their action against terrorism, including by establishing dialogue and exchanges of information with each other and with other relevant international actors.

The Security Council encouraged Member States of the United Nations to cooperate in resolving all outstanding issues with a view to the adoption, by consensus, of the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism, and decided to review actions taken towards the realization of the Declaration at further meetings of the Security Council.

*

Counter-Terrorism Committee meeting with international organizations - The Counter-Terrorism Committee of the Security Council held a one-day meeting with representatives of 60 international, regional and sub-regional organizations in order to exchange views on having a coordinated approach in combating international terrorism. The Secretary-General in his opening address, stressed the need to develop an international program of action to fight terrorism, that would uphold the rule of law; he also noted that the importance of fighting poverty and injustice so as to address the conditions that may be used as justifications by terrorists.

Given the high number of organizations present, few took the floor and those that did so, made a summary of the activities they had undertaken or problems they had encountered. The question of defining terrorism was raised by the League of Arab States and also by a representative of the Financial Action Task Force for South America. The former also highlighted the need to differentiate terrorism from the struggle against foreign occupation. Besides the action taken to suppress the financing of terrorism, numerous references were made to promoting the ratification of the 12 anti-terrorism conventions and their adequate implementation. While several speakers mentioned the need to respect human rights in the anti-terrorism campaign, the representative of Europol called for bearing in mind the victims of terrorism as well. A communiqué issued at the end of the meeting emphasized the importance of a cooperative approach based on the exchange of information, complementarity and giving counter-terrorism initiatives priority. A follow-up meeting of regional and sub-regional organizations, to be held in Washington DC sometime in the summer, will be hosted by the Organization of American States.

Ad hoc Committee on Scope of Protection under UN Personnel Convention will meet for one week in March to continue the discussion on measures to enhance the existing protective legal regime for United Nations and associated personnel. The Committee will focus on the Secretary-General's recommendation to extend the scope of the Convention to all United

Nations operations. In that connection, it will, in particular, address definitions of United Nations personnel and United Nations operations, examine implications of extending the application of the Convention to all United Nations operations and look at different modalities for implementation. The Committee will have before it, apart from relevant report of the Secretary-General, a proposal by New Zealand containing the text of a draft Protocol to the Convention to provide for the automatic application of the Convention to all United Nations operations.

*

Special Committee on UN Charter – will meet in April 2003. It will continue its consideration of proposals concerning:

- *the maintenance of international peace and security* (i.e. proposal of Russian Federation on conditions for the introduction of sanctions and its proposal concerning the legal basis for UN peacekeeping operations; the Libyan proposal on the impact and application of sanctions (para-by-para discussion) and its proposal on strengthening the role of the UN; the Cuban proposal on the strengthening of the role of the Organization and the draft resolution by Belarus and Russia requesting an advisory opinion of ICJ as to the legal consequences of the resort to the use of force;
- assistance to third States affected by the application of sanctions;
- the peaceful settlement of disputes between States;
- proposals concerning the Trusteeship Council (proposal by Malta);
- ways and means of improving the working methods of the Committee (proposal by Japan)
- identification of new subjects for future work with a view to contributing to the revitalization of the Organisation.

*

International Law Commission (split session) – will continue its work, on the following topics: Reservations to treaties, Diplomatic protection, Unilateral acts of States, International Liability and will also start work on new topics, namely Responsibility of international organizations, Fragmentation of International law, Shared natural resources.

Concerning the topic *Reservations to treaties* the Commission, thus far, dealt with seven reports of the Special Rapporteur, Mr. Alain Pellet, and on their basis adopted 53 guidelines on definitions and interpretative declarations and procedure for their formulation. 15 guidelines are still before the Drafting Committee. This year the Commission expects the eighth report of the Special Rapporteur. As the Special Rapporteur indicated, he intends to address questions of permissibility of reservations and interpretative declarations and their effects as well as effects of their acceptance or objections thereto. Also in connection with this topic you may recall the letter that the Chairman and the Special Rapporteur addressed to a number of human rights bodies (HRC, CAT, CERD, CESCR, RC, CEDAW), proposing that the Commission and these human rights bodies proceed with a discussion of the matter of reservation to the human rights conventions, namely problems arising from the General observation No 24 of the Human Rights Committee contravening preliminary conclusion drawn by the ILC in 1997. [i.e. that the regime of reservations is uniform for all treaties, irrespective of their subject matter]. The Committee against the Torture confirmed the proposed date for an exchange of views between its members and the members of the ILC during the first week of the Commission's session.

Concerning the topic *Diplomatic protection* the Commission will have before it the Fourth report of Special Rapporteur, Mr. John Dugard. The three previous reports already considered by the Commission, have dealt with the diplomatic protection of natural persons

and the exhaustion of local remedies rule. Three articles pertaining to the latter issue are still before the Drafting Committee. Although the subject of diplomatic protection of *legal persons* has been raised from time to time in the course of debates in the Commission, no direct attention has been given to this subject. In 2002 the Commission held informal consultations on the diplomatic protection of corporations. The fourth report will provide an analysis of the *Barcelona traction case* and the Special Rapporteur will propose four draft articles dealing with diplomatic protection of corporations and of shareholders in such corporations.

Concerning the topic *Unilateral acts of States*, the Special Rapporteur, Mr. Victor Rodriguez-Cedeño will submit his sixth report, which would focus on a particular type of unilateral act: recognition. The report would deal with its definition, the conditions for validity of the act and its legal effects. In addition, he will explore the possibility of developing guidelines in lieu of a set of draft articles on the topic.

Concerning the topic *International liability for injurious consequences arising out of acts not prohibited by international law (case of loss from transboundary harm arising out of hazardous activities)* - In light of the fact that the Commission concluded its work on the prevention aspects of the topic, the Special Rapporteur, Mr. P.S. Rao will submit his first report on the liability aspects. The report will present an overview of how the problems and issues on the subject were handled by the Commission in its earlier phase of consideration of the topic as a whole. He will also look at recent models of allocation of loss agreed upon in respect of specific regions of the world, or in respect of a specific sector of harm, which may serve as models of allocation of loss for the Commission's work on the topic. Furthermore, since several of these models have also relied on civil liability, the report will discuss the elements of that system which might be deemed appropriate for inclusion in the endeavour.

Concerning the new topic *Responsibility of International organizations*, the Special Rapporteur Mr. Giorgio Gaja will submit his first report. As he indicated, the report will comprise of a brief historical survey and the text leading to three draft articles. His comprehensive report on attribution has been announced for the next year. By that time the Special Rapporteur should receive information on practice of international organizations (requested through the Legal Counsel's letter).

Also concerning the topic *Shared natural resources*, the Special Rapporteur, Mr. Chussei Yamada promised his first report which, as he indicates, will be dealing exclusively with the confined groundwater. He will have a series of discussions with experts who would attend the Third World Water Forum in Kyoto in late March. Due to the submission of the report somewhere towards the end of April, its consideration by the Commission cannot be envisaged earlier than during the second part of the session.

Finally, concerning the topic *Fragmentation of international law*, as you are aware, the Chairman of the Study Group on this topic was elected to the ICJ and accordingly the Commission will first have to appoint either a new Chairman of the Study Group or a Special Rapporteur.

In conformity with its Statute, the Commission undertakes contacts with regional bodies. Those with the Council of Europe and in particular with CAHDI, are both regular and very enriching. Mr. Benitez always provided with great competence a comprehensive illustration of your activities. This year, as I have been informed, we will welcome in the Commission the Director General for Legal Affairs, Mr. Guy De Vel. The Commission also regularly receives the representatives of the Asian African Legal Consultative Organisation and of the Legal Committee of the Organisation of American States. For a couple of years, the Commission also undertakes informal exchanges of views with the experts of the International Committee of the Red Cross. By coincidence, this year the colloque of the Société française du droit

international will be held in Geneva. This event provides another opportunity for the Commission to strengthen its links with academic institutions in terms of its Statute. The subject matter which is envisaged for a possible exchange of views with the members of the Société française, is the Fragmentation of international law.

The Federal Government's hospitality and the attention which you pay personally to the Commission, Mr President, can only be of benefit to the Commission's work in Geneva.

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Sixth Committee of the 58th session of the General Assembly will start with a *Working Group on Convention against reproductive cloning of human beings* on 27 September. As you are no doubt aware, the French - German proposal that a convention against the reproductive cloning of human beings be negotiated, was first considered during the 56th session of the General Assembly and its consideration continued both in the Ad hoc Committee on this matter and in the Working Group of the Sixth Committee during the 57th session of the General Assembly. No agreement was reached on the scope of the proposed convention. The Assembly adopted procedural decision deferring consideration of the matter to its 58th session.

Concerning provisional schedule of the consideration of other agenda items by the Sixth Committee, it will be placed on the web site, as in the past years. The consideration of the report of the ILC will start on 27 October 2003.

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Important part of the mandate of the Codification Division is the encouragement and facilitation of the dissemination and wider appreciation of international law. It includes mainly three types of activities:

- organizing courses and seminars on various subjects of international law (under the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law);
- the preparation and issuance of recurrent and ad hoc legal publications,
- continuous updating of the web sites of the Codification Division and maintaining and expanding the United Nations audio visual library in international law;

Courses and seminars on different subjects of international law are intended for young government officials and teachers in international law, in particular from the developing countries. They are organized by the Codification Division in cooperation with UNITAR. The mandate of the Fellowship Programmes in International Law, for which there is a limited annual budget, is provided in General Assembly resolutions. The courses take place at The Hague at the same time as The Hague academy so that the fellows could benefit also from the courses offered at the academy. In designing the programme, we take account of the areas in international law on which participants from developing countries could have substantial interest. The other component of the programme is regional refresher courses. We have been able to organize a couple of such regional courses in recent years, through cost saving measures with regard to the Fellowship Programme in International Law and contributions by some States agreeing to host the event. In those courses, we focus on areas of international law of direct relevance to the region for which the course is organized.

Our most recent publications include: *Proceedings of the Rome Conference on the ICC (I-III)*; *National Legislation on International Terrorism (part I)* (Legislative series 22); forthcoming are: *Instruments against International Terrorism (F,S & rev.E)*; *Report of Arbitral Awards (23)* under preparation are: *National Legislation on International Terrorism (part II)* ;

Judgment, Advisory opinions and orders of the ICJ, Supplement 2 (1997-2002); *Work of the ILC* – 6th edition;

[This edition brings up to date the previous one published in 1996 by incorporating therein a summary of the latest developments of the work of the Commission as well as the text of new Commission drafts and a new convention. It contains some revisions of the information and texts contained in the previous edition an updated and expanded bibliography which for the first time, includes relevant websites. It will be a more accurate and complete publication.]

Concerning *Juridical Yearbook*, since the backlog in its preparation was eliminated, there will be only one volume prepared per year (any delays may occur only with editors and printing). As far as the *Repertory of Practice* is concerned, our responsibility is coordination of preparation of studies emanating from several Departments. Our Division assumes the Chair of the Interdepartmental Committee on the Repertory. We also prepare studies on article 13 (1,a) namely on progressive development of international law and its codification for volume II of the Repertory and review all studies for all volumes of the Repertory prepared by other departments.

The Codification Division maintains a series of *web sites* dedicated to the various bodies that it services. These include: the “*Sixth Committee*”, the “*International Law Commission*” and under the heading “*Codification of international law*” are also web sites of the Special Committee on the Charter, the Ad Hoc Committees on terrorism, jurisdictional immunities, the scope of protection under the U.N. Personnel Convention, and on the convention against the reproductive cloning of human beings. The Division also maintains a web site on the “*International Criminal Court*”, due to our past or present functions as the Secretariat of the Rome Conference, the Preparatory Commission for the ICC and currently of the Assembly of States Parties to the Rome Statute.

The maintaining of these web sites is part of the Division’s mandate regarding the wider dissemination of information on codification and progressive development of international law. The Internet, a dissemination tool *par excellence*, offers the possibility of reaching a broader audience than print publications. Our web sites offer immediate free access to a whole range of information relating to the activities of the mentioned bodies, including downloading official documentation for free, in any of the six official languages of the United Nations.

The web sites have also created new expectations that we are consistently faced with, in particular the expectation of instantaneity. Such expectations continue to be at the forefront of our minds. Our web sites are increasingly becoming more than just dissemination tools. They also offer new avenues of communication with the member States and as such, become part and parcel of the way the Division does its work. In the recent election of the judges of the International Criminal Court, the provision of timely information over the Internet played a key role in the nomination process. In the resolution adopted by the Assembly of States Parties on the procedure for the election of the judges and the Prosecutor, the Secretariat was specifically requested to place any nominations it received on the Internet as soon as possible. Such information allowed States to be apprised of new developments on a daily basis. We developed a web site based on a database, and put into place a series of internal approval procedures for each nomination. Almost every nomination was thus approved, scanned and placed on the Internet within 24 hours of receipt. The benefit of such an undertaking is evident – it allowed greater flexibility in establishing a tighter period between the end of the nomination period and the election itself, than what would have been possible if States had to wait about six weeks after the end of the nomination period to receive the official document containing the list of nominees (usual

practice until now). We will apply the same procedure once the nomination period for the Prosecutor is reopened in March.

We look also for new and innovative uses for web sites including placement of our publications on Internet. As such, publications are United Nations sales items, meaning that they are available for purchase, offering them for free on the Internet pose the risk of conflicting with the Organization's sales programme. We are currently testing one pilot project to deal with this.

With the agreement of the Sales Office, we have placed on the web site the report of the Assembly of States Parties to the Rome Statute, adopted at its first session in September 2002, in full text in all the official languages, despite the report being a United Nations Sales item. At the same time, as a marketing tool for the sales, we have placed a link on the relevant page to the corresponding page on the U.N. Sales web site, for those who wish to purchase a hardcopy of the report. This arrangement is subject to review. If viable, it may be a model in the future. We already plan placing as well, the proceedings of the Rome Conference on the Internet on the same basis.

Another pilot project involves creating a sub-page on the Codification Division's site containing the texts of the relevant chapter in the Repertory of Practice of United Nations Organs dedicated to the application of article 13(1)(a) of the Charter. The website includes the texts from the old printed Repertory supplements that are no longer available for purchase, but also the most recent, advance version of the most recent studies waiting for editing and print.

All our web site related activities are being undertaken within existing resources. No extra resources have ever been allocated for them. Therefore there are limits on our ability to multiply, in all the official languages of the Organization, our very "content-rich" so called "dynamic" parts of our sites. As you are well aware, all official documents placed on our websites are in all official languages and are placed on the web simultaneously.

The Division is also an active participant in the *computerization project* that has been recently initiated in the Office of Legal Affairs. Among other activities, the goal of the project is to digitize a series of documents and publications, so that they can be available to the whole office through a searchable electronic database. We have, at this initial stage, identified the Juridical Yearbook, the Yearbook of the International Law Commission, the Repertory of Practice of United Nations Organs and the summary records of the Sixth Committee for scanning, in all the languages in which these publications were published.

It is anticipated that this project will take one to two years, and that the end product will be also made available to the member States and to the public, either through the United Nations Optical Disk System or through the Division's web site.

Appendix IV**Preliminary draft agenda of the 26e meeting****A. INTRODUCTION**

1. Opening of the meeting by the Chairman, Ambassador Michel
2. Adoption of the agenda and approval of the report of the 25th meeting (Strasbourg, 17-18 March 2003)
3. Communication by the Director General, Mr de Vel

B. ONGOING ACTIVITIES OF THE CAHDI

4. Decisions by the Committee of Ministers concerning the CAHDI and requests for CAHDI's opinion
5. The law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to international Treaties
 - a. Consideration of outstanding reservations and declarations to international Treaties
 - b. Consideration of reservations and declarations to international Treaties applicable to the fight against terrorism
6. Pilot Project of the Council of Europe on State practice regarding immunities of States and that property

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

7. Developments concerning the International Criminal Court
Exchange of views with Mr Philippe Kirsch, President of the International Criminal Court
8. Implementation of international instruments protecting the victims of armed conflicts
9. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)
10. Fight against Terrorism – Information about work undertaken in the Council of Europe and other international Fora

D. OTHER

11. Date, place and agenda of the 27th meeting of the CAHDI
12. Other business

Appendix V

Statement by Mr Nicholas Michel, Chair of the CAHDI

That concludes our meeting and we return to our Ministries or Organisations.

We do so with heavy hearts. In all likelihood a new war will be starting in a few hours - when exactly, we do not know, but at whatever time a small number of belligerents decide.

It is not for the CAHDI, far less its Chair, to pass judgement on countries' political decisions, particularly when those represented in the CAHDI hold opposing – and in some cases diametrically opposing – views.

I shall therefore take care not to say anything which might be taken or interpreted as a political judgement, especially as I am not opening a discussion but offering a few concluding thoughts which reflect the views, not of the CAHDI or any of its members, but of the Chair alone.

My observations are five in number:

The law is no mere political tool. Certain fundamental legal rules have to be obeyed by all and in all circumstances.

As lawyers we no doubt accept the importance of a law-based approach to problems.

The UN is the universal organisation that is the institutional cornerstone of the international community.

The present situation, whatever the causes of it, potentially weakens the UN.

Equally circumstances have made it clear that a very large number of countries firmly support the crucial role of the United Nations and the Security Council.

Having noted the importance of law and the UN, I am bound to point out the importance of compliance with the UN Charter and Security Council resolutions.

What we are going through shows the need to abide by Security Council resolutions and implement them.

That of course goes for all Security Council resolutions.

My origins impel me to appeal urgently to all parties to the conflict. Under the first article of all four Geneva Conventions, all countries undertake to “respect and ensure respect for” humanitarian international law “in all circumstances”.

The requirements that:

- civilians be distinguished from combatants;
- civilian objectives be distinguished from military ones;
- proportionality be observed;
- all persons placed *hors de combat* be treated with respect;
- and prisoners of war be treated as such

are essential obligations on everyone.

Lastly, when an evil appears it is natural to wish to combat it. It is also necessary to do so. There are evils which focus our attention on their symptoms. We all know that real medium- and long-term solutions require action against the causes of the evil. We also need to devote the necessary resources to dealing with the causes of whatever evil we justly oppose.

There you have the main observations I felt it appropriate to make before we disperse. Some of you, I am sure, might place the emphasis differently or wish to make additional points.

Once again, these are personal thoughts for which I alone take full responsibility.

It would have been odd, you would agree, to let our meeting pass without any reference whatever to present events.

The friendship which unites us and the mutual respect that drives us will help us to continue to work together for law, peace and justice.

Appendix VI

Abridged report of the 25th meeting of the CAHDI

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 25th meeting in Strasbourg, on 17 and 18 March 2003. The meeting was chaired by Ambassador Michel (Switzerland), Chairman of the CAHDI. The list of participants can be consulted in the meeting report (document CAHDI (2003) 8 prov) and the agenda appears in Appendix I.
2. The CAHDI was informed by the Director of Legal Co-operation about recent developments concerning the Council of Europe.
3. The CAHDI was informed about the decisions taken by the Committee of Ministers concerning the Committee and requests for CAHDI's opinion.
4. In the context of its operation as *European Observatory of Reservations to International Treaties*, the CAHDI considered a list of outstanding declarations and reservations to international treaties and several delegations advised the Committee about the follow-up they envisaged to give to certain of the reservations and declarations considered. In the context of this activity, the CAHDI also considered reservations to international treaties applicable to the fight against terrorism in accordance with the decision of the Committee of Ministers of 21 September 2001 (CM/Del/Dec (2001) 765 bis, Item 2.1).
5. The CAHDI was informed about the implementation of the Pilot-Project on State practice regarding State immunities and invited delegations which had not yet sent their contribution to do so by 30 June 2003. It also asked the Secretariat to take appropriate measures to elaborate an analytical report.
6. The CAHDI held an exchange of views with Mr Gil-Robles, Commissioner for Human Rights of the Council of Europe.
7. The CAHDI also held an exchange of views with Mr Mikulka, Director of the Codification Division at the UN Secretariat General. Mr Mikulka's statement can be consulted in the meeting report (document CAHDI (2003) 8 prov).
8. The CAHDI considered developments concerning the implementation of international instruments protecting the victims of armed conflicts, and those concerning the implementation and the functioning of the Tribunals established by UN Security Council Resolutions 927 (1993) and 955 (1994) and the International Criminal Court.
9. The CAHDI considered the developments of the International Criminal Court, and had an exchange of views with Mr Kourula, member of the International Criminal Court.
10. The Secretariat informed the members of the CAHDI about new developments concerning the work undertaken by the Council of Europe in the field of the fight against terrorism.
11. The CAHDI postponed the election of the Vice-Chairman to the next meeting.
12. The CAHDI decided to hold its next meeting in Strasbourg, from 18 to 19 September 2003 and adopted the preliminary draft agenda contained in Appendix II.