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

**29th meeting
Strasbourg, 17- 18 March 2005**

EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL TREATIES:

**LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS
TO INTERNATIONAL TREATIES: RESERVATIONS AND DECLARATIONS TO NON-
COUNCIL OF EUROPE TREATIES**

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

Foreword

1. At its second meeting (Paris, 14-16 September 1998) the Group of Specialists on Reservations to International Treaties (DI-S-RIT) agreed to propose to the CAHDI to operate as an European observatory of reservations to international treaties (see meeting report, document DI-S-RIT (98) 10).
2. In this context, the CAHDI regularly considers a list of outstanding reservations.
3. The following list includes two parts. Part I concerns reservations and declarations to treaties concluded outside the Council of Europe. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org/>.
4. Part II concerns reservations and declarations to Council of Europe treaties. Information was provided by the Treaty Office of the Directorate General of Legal Affairs of the Council of Europe and can be accessed via internet at the new URL <http://conventions.coe.int/>.
5. The format of the information is CONVENTION: **State reserving**, date of notification to the depository, date of notification by the depository (where those dates coincide they are indicated only once), deadline for objections. In as far as possible, the text of the reservation and declaration is included.

Action required

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as a European observatory of reservations to international treaties.

List of outstanding reservations and declarations

1. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, NEW YORK, 9 DECEMBER 1999¹

Belgium, 17 May 2004, 21 May 2004, 20 May 2005

Reservation:

As for article 14 of the Convention, the Government of Belgium makes the following reservation:

1. In exceptional circumstances, the Government of Belgium reserves the right to refuse extradition or mutual legal assistance in respect of any offence set forth in article 2 which it considers to be a political offence or as an offence connected with a political offence or as an offence inspired by political motives.
2. In cases where the preceding paragraph is applicable, Belgium recalls that it is bound by the general legal principle *aut dedere aut judicare*, pursuant to the rules governing the competence of its courts.

Declaration:

¹ *Relevant provisions:*

Article 2:

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or
- (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2 (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

- (a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;
- (b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;
- (c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or
 - (ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 14: None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

I. Concerning article 2, paragraph 2 (a), of the Convention, the Government of Belgium declares the following:

The following treaties are to be deemed not to be included in the annex:

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988);

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988);

International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

II. The Government of Belgium interprets paragraphs 1 and 3 of article 2 as follows: an offence in the sense of the Convention is committed by any person who provides or collects funds if by doing so he contributes, fully or partly, to the planning, preparation or commission of an offence as defined in article 2, paragraph 1 (a) and (b) of the Convention. There is no requirement to prove that the funds provided or collected have been used precisely for a particular terrorist act, provided that they have contributed to the criminal activities of persons whose goal was to commit the acts set forth in article 2, paragraph 1 (a) and (b).

Declaration of jurisdiction:

In accordance with the provisions of the article 7, paragraph 3, of the Convention, Belgium declares that, pursuant to its national legislation, it establishes its jurisdiction over offences committed in the situation referred to in article 7, paragraph 2 of the Convention.

2. CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL, NEW YORK, 09 DECEMBER 1994²

Turkey, 09 August 2004, 17 August 2004, 16 August 2005

Declaration:

² *Relevant provisions:*

Article 20 :

Nothing in this Convention shall affect: (a) The applicability of international humanitarian law and universally recognized standards of human rights as contained in international instruments in relation to the protection of United Nations operations and United Nations and associated personnel or the responsibility of such personnel to respect such law and standards;

Article 22 :

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by all or part of paragraph 1. The other States Parties shall not be bound by paragraph 1 or the relevant part thereof with respect to any State Party which has made such a reservation.

I. The Republic of Turkey declares that it will implement the provisions of the Convention only to the State Parties with which it has diplomatic relations.

II. The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and legal and administrative order of the Republic of Turkey are applied.

III. The Republic of Turkey declares that, in accordance with article 22, paragraph 2 of the Convention, Turkey does not consider itself bound by article 22, paragraph 1 of this Convention. The explicit consent of the Republic of Turkey is necessary in each individual case before any dispute to which the Republic of Turkey is party concerning the interpretation or application of this Convention may be referred to the International Court of Justice.

Reservation:

In connection with Article 20, paragraph 1 of the Convention, concerning the applicability of international humanitarian law, the Republic of Turkey is not a party to the Protocols I and II, dated 8 June 1977, Additional to the Geneva Conventions of 12 August 1949, and therefore will not be bound by the provisions of the said Protocols.

3. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, NEW YORK, 18 DECEMBER 1979³

³ *Relevant provisions:*

Article 2 :

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy eliminating discrimination against women and, to this end, undertake:

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

Article 5 :

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 9 :

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 11 :

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.

2. In order to prevent discrimination against women on the ground of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

Article 15 :

1. States Parties shall accord to women equality with men before the law.

Micronesia (Federal States of), 01 September 2004, 09 September 2004, 08 September 2005

Reservation:

1. The Government of the Federated States of Micronesia advises that it is not at present in a position to take the measures either required by Article 11 (1) (d) of the Convention to enact comparable worth legislation, or by Article 11 (2) (b) to enact maternity leave with pay or with comparable social benefits throughout the nation;
2. The Government of the Federated States of Micronesia, in its capacity as trustee of the heritage of diversity within its States under Article V of its Constitution, reserves the right not to apply the provisions of Articles 2 (f), 5, and 16 to the succession of certain well-established traditional titles, and to marital customs that divide tasks or decision-making in purely voluntary or consensual private conduct; and
3. The Government of the Federated States of Micronesia does not consider itself bound by the provisions of Article 29 (1) of the Convention, and takes the position that any dispute relating to the interpretation or application of the Convention may only be submitted to arbitration or to the International Court of Justice with the agreement of all parties to the dispute.

Lesotho, 25 August 2004, 2 September 2004, 1 September 2005

Reservation:

The Government of the Kingdom of Lesotho declares that it does not consider itself bound by article 2 to the extent that it conflicts with Lesotho's constitutional stipulations relative to succession to the throne of the Kingdom of Lesotho and law relating to succession to chieftainship.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

Article 16 :

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount ;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 29 :

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

United Arab Emirates, 6 October 2004, 1 December 2004, 30 November 2005

Reservations:

Article 2 (f)

The United Arab Emirates, being of the opinion that this paragraph violates the rules of inheritance established in accordance with the precepts of the Shariah, makes a reservation thereto and does not consider itself bound by the provisions thereof.

Article 9

The United Arab Emirates, considering the acquisition of nationality an internal matter which is governed, and the conditions and controls of which are established, by national legislation makes a reservation to this article and does not consider itself bound by the provisions thereof.

Article 15 (2)

The United Arab Emirates, considering this paragraph in conflict with the precepts of the Shariah regarding legal capacity, testimony and the right to conclude contracts, makes a reservation to the said paragraph of the said article and does not consider itself bound by the provisions thereof.

Article 16

The United Arab Emirates will abide by the provisions of this article insofar as they are not in conflict with the principles of the Shariah. The United Arab Emirates considers that the payment of a dower and of support after divorce is an obligation of the husband, and the husband has the right to divorce, just as the wife has her independent financial security and her full rights to her property and is not required to pay her husband's or her own expenses out of her own property. The Shariah makes a woman's right to divorce conditional on a judicial decision, in a case in which she has been harmed.

Article 29 (1)

The United Arab Emirates appreciates and respects the functions of this article, which provides: "Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months...the parties are unable..." [any one of those parties] "may refer the dispute to the International Court of Justice..."

This article, however, violates the general principle that matters are submitted to an arbitration panel by agreement between the parties. In addition, it might provide an opening for certain States to bring other States to trial in defence of their nationals; the case might then be referred to the committee charged with discussing the State reports required by the Convention and a decision might be handed down against the State in question for violating the provisions of the Convention. For these reasons the United Arab Emirates makes a reservation to this article and does not consider itself bound by the provisions thereof.

4. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, NEW YORK, 16 DECEMBER 1966

Pakistan, 03 November 2004, 17 November 2004, 16 November 2005

Declaration:

While the Government of Islamic Republic of Pakistan accepts the provisions embodied in the International Covenant on Economic, Social and Cultural Rights, it will implement the

said provisions in a progressive manner, in keeping with the existing economic conditions and the development plans of the country. The provisions of the Covenant shall, however, be subject to the provisions of the constitution of the Islamic Republic of Pakistan.

5. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS, NEW YORK, 25 MAY 2000

Oman, 17 September 2004, 3 December 2004, 2 December 2005

Reservation:

(...) subject to the Sultanate's reservations to the Convention on the Rights of the Child.

Declaration:

(...) the minimum legal age for enlistment in the Ministry of Defence and the Sultan's armed forces is eighteen years; that a birth certificate or a certificate of ascertainment of age from the competent governmental authorities constitutes the precautionary measure for ensuring compliance with that requirement; and that enlistment is optional, not compulsory.

6. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, NEW YORK, 10 DECEMBER 1984

Syrian Arab Republic, 19 August 2004, 24 August 2004, 23 August 2005

Declaration:

The accession of the Syrian Arab Republic to this Convention shall in no way signify recognition of Israel or entail entry into any dealings with Israel in the context of the provisions of this Convention.

7. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS; NEW YORK, 16 DECEMBER 1966⁴

Mauritania, 17 November 2004, 23 November 2004, 22 November 2005

⁴ *Relevant provisions:*

Article 18:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 23:

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Declaration:

The Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declares that their application shall be without prejudice to the Islamic Shariah.

The Mauritanian Government interprets the provisions of article 23, paragraph 4, on the rights and responsibilities of spouses as to marriage as not affecting in any way the prescriptions of the Islamic Shariah.