



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 10/02/06

CAHDI (2006) 2 Part I

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

**31st meeting
Strasbourg, 23-24 March 2006**

**EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL
TREATIES: LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS
TO INTERNATIONAL 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/>. 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/>.
4. 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

PART I: RESERVATIONS AND DECLARATIONS TO NON-COUNCIL OF EUROPE TREATIES

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

EGYPT, 1 March 2005, 5 August 2005, 4 August 2006

Reservations and declaration:

1. Under article 2, paragraph 2 (a), of the Convention, the Government of the Arab Republic of Egypt considers that, in the application of the Convention, conventions to which it is not a party are deemed not included in the annex.
2. Under article 24, paragraph 2, of the Convention, the Government of the Arab Republic of Egypt does not consider itself bound by the provisions of paragraph 1 of that article.

Explanatory 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;

Article 24:

1. Any dispute between two or more states Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time 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 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 paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

Article 26:

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Without prejudice to the principles and norms of general international law and the relevant United Nations resolutions, the Arab Republic of Egypt does not consider acts of national resistance in all its forms, including armed resistance against foreign occupation and aggression with a view to liberation and self-determination, as terrorist acts within the meaning of article 2, [paragraph 1] subparagraph (b), of the Convention.

The Convention entered into force for Egypt on 31 March 2005 in accordance with its article 26 (2).

SYRIAN ARAB REPUBLIC, 24 April 2005, 4 May 2005, 3 May 2006

Reservations and declarations:

A reservation concerning the provisions of its article 2, paragraph 1 (b), inasmuch as the Syrian Arab Republic considers that acts of resistance to foreign occupation are not included under acts of terrorism;

Pursuant to article 2, paragraph 2 (a) of the Convention, the accession of the Syrian Arab Republic to the Convention shall not apply to the following treaties listed in the annex to the Convention until they have been adopted by the Syrian Arab Republic:

1. The International Convention against the Taking of Hostages, adopted by the General Assembly on 17 December 1979;
2. The Convention on the Physical Protection of Nuclear Materials, adopted at Vienna on 3 March 1980;
3. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly on 15 December 1997.

Pursuant to article 24, paragraph 2, of the Convention, the Syrian Arab Republic declares that it does not consider itself bound by paragraph 1 of the said article;

The accession of the Syrian Arab Republic to this Convention shall in no way imply its recognition of Israel or entail its entry into any dealings with Israel in the matters governed by the provisions thereof.

The Convention will enter into force for the Syrian Arab Republic on 24 May 2005 in accordance with its article 26 (2).

BANGLADESH, 26 August 2005, 1 September 2005, 31 August 2006

Reservation:

Pursuant to Article 24, paragraph 2 of the Convention [the] Government of the People's Republic of Bangladesh does not consider itself bound by the provisions of article 24, paragraph 1 of the Convention.

Understanding:

[The] Government of the People's Republic of Bangladesh understands that its accession to this Convention shall not be deemed to be inconsistent with its international obligations under the Constitution of the country.

The Convention will enter into force for Bangladesh on 25 September 2005 in accordance with its article 26 (2).

2. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS, NEW YORK, 15 DECEMBER 1997²

BELGIUM, 20 May 2005, 23 May 2005, 22 May 2006

Declaration:

As for article 11 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 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 *Relevant provisions:*

Article 2:

1. Any person commits an offence within the meaning of this convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

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

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or

(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 6:

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 11:

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.

Article 19:

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 22:

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day deposit by such State of its instrument of ratification, acceptance, approval or accession.

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.

The Convention will enter into force for Belgium on 19 June 2005 in accordance with its article 22 (2).

EGYPT, 9 August 2005, 16 August 2005, 15 August 2006

Reservations made upon signature and confirmed upon ratification.

Reservations:

1. The Government of the Arab Republic of Egypt declares that it shall be bound by article 6, paragraph 5, of the Convention to the extent that the national legislation of States Parties is not incompatible with the relevant norms and principles of international law.

2. The Government of the Arab Republic of Egypt declares that it shall be bound by article 19, paragraph 2, of the Convention to the extent that the armed forces of a State, in the exercise of their duties, do not violate the norms and principles of international law.

The Convention will enter into force for Egypt on 8 September 2005 in accordance with its article 22 (2).

3. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, NEW YORK, 13 APRIL 2005³

TURKEY, 14 September 2005

³ *Relevant provisions:*

Article 4 :

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

4. This Convention, does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

Article 23:

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for 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 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 paragraph 1 on the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Upon signature.

Declaration:

It is the understanding of the Republic of Turkey that the term international humanitarian law in Article 4 (2) of the International Convention for the Suppression of Acts of Nuclear Terrorism, refers to the legal instruments to which Turkey is already party to. The 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 creating new obligations for the Republic of Turkey.

Reservation:

Pursuant to Article 23 (2) of the Convention, the Government of the Republic of Turkey declares that it does not considers itself bound by article 23 (1) of the Convention.

EGYPT, 20 September 2005

Reservation made upon signature:

The Arab Republic of Egypt declares its commitment to article 4 of the Convention provided that the armed forces of a State do not violate the rules and principles of international law in the exercise of their duties under that article, and also provided that the article is not interpreted as excluding the activities of armed forces during an armed conflict from the scope of application of this Convention on the grounds that the activities of States - under certain legal circumstances - are not considered terrorist activities.

The Arab Republic of Egypt declares that it does not consider itself bound by paragraph 1 of article 23 of the Convention.