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**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW /
COMITE DES CONSEILLERS JURIDIQUES SUR LE DROIT INTERNATIONAL PUBLIC
(CAHDI)**

**THE ORGANISATION AND FUNCTIONS OF THE OFFICE OF THE
MINISTRY OF FOREIGN AFFAIRS LEGAL ADVISER /**

**L'ORGANISATION ET LES FONCTIONS DU BUREAU DU
CONSEILLER JURIDIQUE DU MINISTERE DES AFFAIRES
ETRANGERES**

COMPILATION OF REPLIES / RECUEIL DE REPONSES

Memorandum prepared by the Secretariat of the CAHDI /
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ALBANIA

1. Title of the Legal Adviser and the legal Office?

Legal Adviser to the Ministry of Foreign Affairs of the Republic of Albania holds the rank of a Director within the MFA and is the head of Legal Issues and Treaties Department (LITD). The Legal Advisers are part of the diplomatic service.

2. Principal functions

The principal function of the LITD is to give legal opinion and expertise on the issues of public international law, or national law to the Minister, other departments of the MFA and to the other Governmental Institutions, as well as the representation of the Republic of Albania at international conferences and negotiations regarding international acts.

According to the law No.8371, date 9.07.1998 "On the conclusion of treaties and international agreements" the Ministry of Foreign Affairs (the Legal Issues and Treaties Department) is the authority which coordinates the process of concluding international treaties and bilateral agreements.

In this regard, the LITD organises its work in:

- The bilateral agreements;
- The international conventions;
- Other issues of international public law.

The LITD gives its opinion on every bilateral and multilateral agreement, proposed either by the Albanian authorities or by any other Party before the approval of the agreement from the Council of Ministers and its signature.

It also gives its opinion for every international act in which the Republic of Albanian will become a Party.

The interested ministry must deposit the original of the signed agreement to the Ministry of Foreign Affairs, together with an explanatory note and the LITD presents to the Council of Ministers the relevant acts for ratification, accession, or approval of international agreements and treaties, within one month from their deposit.

Another important task of the Legal Issues and Treaties Department is to inform the other contracting parties for the fulfilment of the internal legal procedures necessary for an agreement to enter into force. It also prepares the instruments of ratification or accession to the international treaties ratified or approved by the Albanian Parliament or the Government, proceeding to their deposit on the competent authority.

It is also the only authority, which upon the approval of the Council of Ministers prepares the full powers to authorize the representatives of the Republic of Albania to sign bilateral agreements or multilateral conventions and to represent the Government to the activities on the international fora.

3. Number of lawyers including overseas staff

The staff of the Legal Issues and Treaties Department (LITD) consists in four diplomats, called legal experts and the head of the Department.

The other issues concerning human rights, legal representation, or domestic law are dealt within other departments in the MFA such as the Legal Representative Office to the European Court of Human Rights, the International Organizations Department, and the Office for Minorities, whose staff is composed mainly by lawyers.

There are a number of lawyers posted abroad to the Albanian Missions to the UN in New York, Council of Europe, OSCE, Albanian Embassy in Rome, Athena.

4. The organization and structure of LITD

There are not separate divisions within the LITD as the number of the legal experts is limited. Two legal experts deal with bilateral agreements and the other two with international acts. They all deal with general international law issues.

LITD is the authority which gives the final approval for international acts in close cooperation with the other political departments.

5. LITD place within the Ministry of Foreign Affairs

As mentioned before the Legal Issues and Treaties Department is an important office of the Ministry of Foreign Affairs whose functions are not only to give legal advise to the Minister or other leading and operative structures of the Ministry, but also to the other Governmental Institutions as well.

6. The main contact of the LTID within the Government

The legal experts have close contacts with the Office of the Prime Minister for the procedures of the approval of international agreements. Its work is related with all other Ministries, especially with their International Relations and Legal Departments on international law issues and on the conclusion of bilateral agreements and acts, which object, is under their competences.

7. Relations of the LITD with lawyers in private practice, academics and legal institutions

The work of legal experts of the LITD is often related with legal institutions, the private lawyers or academic lawyers in order to draw their opinion on important matters of public international law.

ARMENIA**1. What are the title, rank and position of the Legal Adviser?**

Currently the post of the legal adviser is not envisaged in the structure of the Ministry of Foreign Affairs as such. In this case all legal matters are dealt with the ministry's legal department headed by the director. The director of the legal department is granted, as a rule, the diplomatic rank of the first secretary of first class. The director and other employees are considered as diplomatic officers and the law on diplomatic service is applicable to them.

2. What are the principal functions of the OLA?

The Legal Department of the Ministry of Foreign Affairs of Armenia:

a) Provides and co-ordinates the work with the respective structural units of the Ministry's staff, diplomatic and consular bodies under its statute and the Law on International Treaties of the Republic of Armenia,

b) takes initiatives for the formulation and development of the legal co-operation basis bilaterally and multilaterally with other states and international organizations, makes respective proposal in this regard jointly with other units of the Ministry,

c) carries out international-legal expertise of the international treaties of the Republic of Armenia

d) participates in the negotiations of the international treaties

e) prepares the signature of the international treaties jointly with other structural units of the Ministry concerned,

f) arranges the internal procedures for the entry into force of the international treaty, notifies the other contracting party or depositary of such procedures, may serve as a depositary of the international treaty,

g) controls the implementation of the international treaty,

h) initiates the approximation and compatibility proposals to bring the Armenian legislation compatible to the provisions and undertakings arising from the treaties in force in respect of Armenia,

i) deposits the original treaties of Armenia and their true (authentic) copies, authentic translations and related documents,

j) co-ordinates the registration of treaties with the UN Secretariat.

j1) provides database of international treaties

j2) co-ordinates the activities of the other governmental and local agencies and bodies

j3) organizes the publication of the treaties in force

j4) carries out international-legal expertise of the draft legislative and other acts

j5) advises on different legal matters within the ministry, to Armenian diplomatic and consular establishments, other agencies, and diplomatic corpus in Armenia when appropriate,

j6) is involved in international legal co-operation with various international non-governmental and governmental organizations, participates in the preparatory and negotiation process where legal or related questions are touched upon, liaises the Ministry and other international legal institutions,

j7) analyses the developments and practices in international law and European law

j8) presents the Ministry before the courts,

j9) prepares national reports or/and co-ordinates current work of such reports,

j10) carries out other activities as assigned under the legislation.

3. Please give a brief description of staff employed by the OLA, including overseas staff

Employed persons are professionals with legal background who are to be recruited through open competition. They are considered as diplomatic officers and the law on diplomatic service is applicable to them. However, there exists the post of civil servant who is recruited through civil service commission and is engaged in the same work, as diplomats, of the department.

4. Briefly describe the organisation and structure of the OLA

As was mentioned above in response to question 1 all legal matters are dealt with the ministry's legal department. The department consists of two desks:

1. Desk of the international treaties and deposit.
2. Desk of the implementation of international treaties and internal legislation.

The functions of the mentioned desks are distributed according to the bylaws of the department in the light of the functions above mentioned in response to the question 2.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The legal department is a structural unit of the Ministry with mainly diplomatic staff. No specific status is granted to the department in comparison with other units.

6. What are the main contacts of the OLA within Government?

Main contacts are made at first with ministries concerned, where permanent engagements have Ministry of Justice and Ministry of Finance and Economy. Besides, the Ministry initiating a conclusion of a treaty is a key player. However, the Ministry of Foreign Affairs (in this case legal department) remains the main co-ordinator among other departments and ministries. Nearly all communications (Government, Presidency, Constitutional Court, Parliament etc.) relating to the treaties and legal acts arising from the treaties are made through the Ministry's legal department.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

Main contacts with lawyers in private sector are connected with different inquiries, especially relating to the entry into force of the treaty and additional explanatory inquiries are made in respect to treaties. The department is involved in international legal co-operation with various international non-governmental and governmental organizations.

While analysing the developments and practices in international law and European law, preparing national reports or/and co-ordinating current work of such reports department actively engages in with various academic institutions (mainly universities) and specialized NGOs.

8. Please provide a brief bibliography on the OLA, if available

Please refer to question 2 above.

Appendix

LAW OF THE REPUBLIC OF ARMENIA ON INTERNATIONAL TREATIES OF THE REPUBLIC OF ARMENIA

CHAPTER 1
GENERAL PROVISIONS*Article 1. Subject Regulated by the Law*

1. The present law regulates the relations of drafting and negotiating an international treaty of the Republic of Armenia, of its pre-signing, signing, ratification or approval, of joining thereto, entering into force, registering, temporary application and execution thereof, as well as the relations of temporary suspension and termination of an international treaty for the Republic of Armenia and other relations connected with it.

2. The force of this law shall not cover the international civil and legal relations regulated by the international private law.

Article 2. International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia shall be a written agreement between the Republic of Armenia and foreign states, international organizations or other subjects of international law concluded in compliance with the constitution of the Republic of Armenia, with this law and the norms of the international law. An international treaty shall be regulated by the international law and shall define, amend or terminate the rights and obligations of the parties and shall enter into legal force by the established procedure and shall be deemed binding for the Republic of Armenia.

2. In accordance with this law any written agreement drawn up in the form of a contract, agreement, convention, memorandum, exchange of notes or documents with any other titles, accepted in international practice, shall be deemed to be an international treaty of the Republic of Armenia.

An international treaty may be drawn up in the form of one general document or more than one interrelated documents inseparable from each other.

3. In accordance with this law an international organization shall be an interstate or intergovernmental organization established with participation of two and more states or their governments.

Article 3. Parties to an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia may be bilateral or multilateral.

2. In a bilateral international treaty another subject of international law shall act as the other party along with the Republic of Armenia.

In a bilateral international treaty (both together with the Republic of Armenia and the other party) more than one subject of international law may represent a single united (collective) party thereof.

3. In a multilateral international treaty more than one subject of international law may represent, along with the Republic of Armenia, independent parties to the same treaty.

Article 4. Legislation on an International Treaty of the Republic of Armenia

1. The relations connected with an international treaty of the Republic of Armenia shall be regulated by the Constitution of the Republic of Armenia, this law, international treaties of the Republic of Armenia, as well as by other laws and legislative acts adopted on the basis thereof.

2. The relations connected with an international treaty of the Republic of Armenia and not regulated by this law shall be regulated by well-known principles and norms of international law.

Article 5. Relationship between an International Treaty of the Republic of Armenia and the Laws of the Republic of Armenia

1. A ratified international treaty of the Republic of Armenia shall be an integral part of the legal system of the Republic of Armenia. Should an international treaty ratified by the National Assembly of the Republic of Armenia define other norms not stipulated by the laws of the Republic of Armenia, the norms of the international treaty shall be applied.

The intergovernmental and interdepartmental treaties of the Republic of Armenia not ratified by the National Assembly of the Republic of Armenia may not contradict the laws of the Republic of Armenia.

2. In the Republic of Armenia the norms of an international treaty shall be applied directly, unless they require the adoption of an inner state act of the Republic of Armenia or the adoption of the latter arises from the necessity to ensure the proper execution of this treaty.

CHAPTER II SUBJECTS OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA AND RELATIONS REGULATED BY IT

Article 6. Subjects of an International Treaty of the Republic of Armenia

1. The Republic of Armenia shall be the subject of an international treaty of the Republic of Armenia.

Subjects of an international treaty of the Republic of Armenia may be foreign states, international organizations, as well as other subjects of international law.

An international treaty of the Republic of Armenia may be also concluded with a subject of a federation or a subject of a federation of foreign states having a similar structure accepted by international law (hereinafter called federal), and with a State entity having an autonomous or other status, if it is entitled in accordance with the laws of the federal State to conclude an international treaty.

2. An international treaty of the Republic of Armenia may be concluded:

- a) on behalf of the Republic of Armenia (an interstate treaty),
- b) on behalf of the Government of the Republic of Armenia (an intergovernmental treaty),
- c) on behalf of the republican executive bodies, the General Procurator's Office, the National Academy of Sciences, as well as the Central Bank of the Republic of Armenia (an interdepartmental treaty).

3. Irrespective of on whose behalf there has been concluded the international treaty on the part of the Republic of Armenia (hereinafter the Armenian party), the Republic of Armenia shall be the party and the subject that international treaty. The Republic of Armenia shall be responsible for the execution of obligations undertaken by the Armenian party.

Article 7. Relations Regulated by an Interstate Treaty of the Republic of Armenia

1. An interstate international treaty of the Republic of Armenia shall regulate the following:

a) relations connected with establishment of an alliance for friendship and cooperation, defense, refusal to use force or mutual threat of use of force and truce and a military or political alliance or accession thereto, with settlement of border and territorial issues, establishment of international organizations or accession thereto, establishment of diplomatic and consular relations, the receipt or granting of credits, loans and guarantees, financial cooperation and other relations connected with the vital interests of the Republic of Armenia.

b) Relations connected with human rights, liberties and obligations, the citizenship, the legal status of foreign citizens, refugees and forcefully displaced persons, as well as with legal assistance for civil, family and criminal cases and establishment of legal relations.

c) Relations connected with the alienation of cultural values considered as the property of the Republic of Armenia and of other objects.

d) Relations within in accordance with this law the framework of regulation by intergovernmental and interdepartmental treaties, if the other party to the treaty wishes to conclude it on behalf of the Republic of Armenia.

Article 18. Relations Regulated by an Intergovernmental Treaty of the Republic of Armenia

1. An intergovernmental treaty of the Republic of Armenia shall regulate relations within the jurisdiction of the Government of the Republic of Armenia in accordance with the Constitution of the Republic of Armenia, this and other laws.
2. An intergovernmental treaty of the Republic of Armenia shall regulate:
 - a) general economic relations including relations of trade, industry, agriculture, science and technology, education, foreign investments and taxation.
 - b) relations connected with particular fields of economy, if they are not within the direct jurisdiction of a republican executive body carrying out the public administration of the relevant field.
 - c) relations connected with establishment of intergovernmental international organizations and accession thereto, with the receipt or granting of credits, loans and guarantees, with financial cooperation and other relations connected therewith.
3. An intergovernmental treaty may be concluded both by the initiative of the Government of the Republic of Armenia and for execution of an interstate or other intergovernmental treaty of the Republic of Armenia.
4. An intergovernmental treaty of the Republic of Armenia may not regulate relations regulated by an interstate treaty of the Republic of Armenia.

Article 9. Relations Regulated by an Interdepartmental Treaty of the Republic of Armenia

1. An interdepartmental treaty shall regulate relations connected with interdepartmental cooperation, mutual aid and other relations of mutual interest that in accordance with the legislation of the Republic of Armenia are within the jurisdiction of a relevant republican executive body, the Office of the General Procurator, the National Academy of Sciences and the Central Bank (hereinafter departments) of the Republic of Armenia.
2. An interdepartmental treaty of the Republic of Armenia may be concluded both by the initiative of the departments and for the execution of the interstate, intergovernmental or other interdepartmental treaty of the Republic of Armenia.
3. An interdepartmental treaty of the Republic of Armenia may not regulate the relations regulated by interstate and intergovernmental treaties of the Republic of Armenia.

CHAPTER III
CONCLUSION OF AN INTERNATIONAL
TREATY OF THE REPUBLIC OF ARMENIA

Article 10. Initiative to Conclude an International Treaty of the Republic of Armenia

1. Conclusion of an international treaty of the Republic of Armenia may be initiated by the President of the Republic of Armenia, the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia and the departments within their branch of activity and jurisdiction, as well as foreign States and other subjects of international law.

The Ministry of Foreign Affairs of the Republic of Armenia may as well initiate the conclusion of an international treaty on matters within the jurisdiction of other departments by means of presentation of a relevant proposal by the latter.

The conclusion of an international treaty of the Republic of Armenia may be initiated by more than one interested department. These departments may also jointly draft by their own initiative or by the instructions of the bodies and officials mentioned in item 2 of this Article a draft international treaty. One of them shall be in this case the principal initiator and shall be responsible for the draft's approval and further progress.

2. An instruction to conclude an international treaty of the Republic of Armenia may be given by:

¹ Please, note that Article 8 has some changes, but however, not included here. ONLY in Armenian is available.

- a) the President of the Republic of Armenia in respect of interstate, intergovernmental and interdepartmental Treaties,
- b) the Government and the Prime Minister of the Republic of Armenia in respect of intergovernmental and interdepartmental treaties, except interdepartmental treaties concluded on behalf of the Central Bank and the Office of the General Procurator.

3. The relations connected with the execution of the instructions stipulated in item 2 of the present article shall be regulated with the norms of point “b” of item 2 of Article 12, the norms of Article 13, as well as of item 2 of Article 14 related to the further progress of the proposal to conclude an international treaty, if not otherwise stipulated by these instructions.

Article 11. Proposal to Conclude an Interstate and an Intergovernmental Treaty of the Republic of Armenia

1. If the initiative to conclude an interstate or an intergovernmental treaty has been taken by a Department of the Republic of Armenia, It shall draft that treaty and submit it to the Ministry of Foreign Affairs of the Republic of Armenia substantiating the necessity or expediency of its conclusion.

2. If the initiative to conclude an interstate or an intergovernmental treaty has been taken by a foreign state or other subject of international law, and an appropriate proposal has been submitted to the Ministry of Foreign Affairs, then the latter shall address it within five days following the receipt of the proposal to the relevant Department of the Republic of Armenia.

Following the receipt of the proposal by the Ministry of Foreign Affairs of the Republic of Armenia or directly by a department, the relevant department shall submit within 15 days upon its receipt a written opinion on the proposal to the Ministry of Foreign Affairs of the Republic of Armenia.

3. In accordance with procedures set forth in items 1 and 2 of this Article, the Ministry of Foreign Affairs of the Republic of Armenia within 10 days following the receipt of the proposals or opinions of relevant departments of the Republic of Armenia shall consider them and shall respectively submit all documents concerning the conclusion of the interstate or the intergovernmental treaty to the President of the Republic of Armenia or the Government of the Republic of Armenia together with its opinion.

Article 12. Procedures Connected with a Proposal to Conclude an Interstate or an Intergovernmental Treaty of the Republic of Armenia

1. If the proposal to conclude an interstate or an intergovernmental treaty has received the consent of respectively the President or the Government of the Republic of Armenia expressed in adoption of a relevant decision, then the department, that has taken the initiative to conclude that treaty, or the department, within jurisdiction of which are the issues regulated by that treaty (hereinafter the competent department), shall be notified thereof through the Ministry of Foreign Affairs of the Republic of Armenia).

The President of the Republic of Armenia or the Government of the Republic of Armenia may give together with their consent certain instructions in regard of the issues related to the conclusion of that treaty.

2. The competent department of the Republic of Armenia, unless the President of the Republic of Armenia or the Government of the Republic of Armenia define some other term, within one month following the receipt of the consent of respectively the President of the Republic of Armenia or the Government of the Republic of Armenia in regard of the proposal to conclude an interstate or an intergovernmental treaty shall:

- a) review all documents relating to the proposal to conclude an interstate or intergovernmental treaty and shall, if necessary, specify or redrafts the treaty or prepares the draft treaty, if it was not attached to the proposal received from a foreign state or other subject of international law.

- b) If the proposal has been received from a foreign state or other subject of international law, and it has included a relevant draft treaty, the competent department shall prepare its preliminary opinion on that draft;

- c) following the completion of actions specified in sub-item “a” of this item, shall submit the relevant draft interstate or intergovernmental treaty for the approval of the Ministry of Justice of the

Republic of Armenia, the Ministry of Finance and Economy of the Republic of Armenia, as well as of other departments interested in this international treaty.

Article 13. Procedures Connected with Consideration of a Draft Interstate or Intergovernmental Treaty of the Republic of Armenia

1. The interested Departments shall be committed to submit their opinion or comments and proposals for concordance to the competent department of the Republic of Armenia within 15 days following the receipt of the draft of an interstate or intergovernmental treaty.

If there are provisions in the draft international treaties submitted for concordance that contradict the Constitution of the Republic of Armenia, the Ministry of Justice of the Republic of Armenia shall propose the draft maker to remove these provisions and shall draw the attention of the draft maker to the purposefulness of maintaining the provisions, if available in the draft, that contradict the laws of the Republic of Armenia.;

The competent department within 10 days following the receipt of the opinions or comments and proposals of the interested departments shall consider them and shall, if necessary, revise or redraft the treaty and submit it to the Ministry of Foreign Affairs of the Republic of Armenia.

If the competent department of the Republic of Armenia does not fully or partially agree with the opinions or comments and proposals of the interested departments, it shall also notify the Ministry of Justice thereof and shall specify the reasons for disagreement.

2. The draft maker shall decide if it is expedient to preserve in the draft interstate or intergovernmental treaty the provisions contradicting the Constitution and laws of the Republic of Armenia.

3. The Ministry of Foreign Affairs within 10 days following the receipt of the draft interstate or intergovernmental treaty from the competent department shall submit it to the other party in the treaty.

If it is planned to conclude a bilateral interstate or intergovernmental treaty, its draft shall be sent to all parties or to the international organization or its body responsible or authorized for concordance of the text of the draft.

14. Procedures Connected with a Proposal to Conclude an Interdepartmental Treaty of the Republic of Armenia

1. A proposal to conclude an interdepartmental treaty of the Republic of Armenia shall be submitted, irrespective of whether it has been initiated by the Republic of Armenia, a foreign state or other subject of international law, by the Ministry of Foreign Affairs of the Republic of Armenia for approval to the Government of the Republic of Armenia that will adopt a relative decision thereon.

If the proposal to conclude an interdepartmental treaty has been made by the competent department of the Republic of Armenia, it must attach the draft of the respective treaty to the proposal and substantiate the necessity or expediency of its conclusion.

If the proposal has been made by a foreign state or other subject of international law that has submitted it to the Ministry of Foreign Affairs of the Republic of Armenia through diplomatic channels, the latter shall address the proposal to the competent department.

If the proposal to conclude an interdepartmental treaty has been agreed upon by the Government of the Republic of Armenia, the competent department of the Republic of Armenia shall be notified thereof through the Ministry of Foreign Affairs of the Republic of Armenia.

2. After the consent has been received from the Government of the Republic of Armenia, the competent department shall submit that draft interdepartmental treaty for concordance to the interested departments specified in sub-item "b" of item 2 of Article 12 of this law.

The relations connected with the proposal to conclude an interdepartmental treaty, submission of an opinion or comments and proposals on the draft of this treaty, their consideration and presentation to the other party of the treaty shall be regulated by the procedure defined in sub-item "a" of item 2 of Article 12 of this law.

Article 15. Organization of Work Related to Negotiating, Pre-Signing, Signing, Submission for Ratification or Approval of an International Treaty of the Republic of Armenia

Following the submission of the draft international treaty and of the opinion or comments and proposals of the Armenian party on the draft of such treaty to the other party of the treaty, the Ministry of Foreign Affairs of the Republic of Armenia shall, with participation of interested departments, organize and administer negotiations for the conclusion of that treaty, the activities aimed at reaching an agreement upon the text of the treaty with the other party, its pre-signing, signing and submission in accordance with the established procedure for ratification or approval.

Article 16. Persons Authorized to Negotiate the Conclusion, Pre-signing and Signing of an International Treaty of the Republic of Armenia

1. The President of the Republic of Armenia, the Prime Minister of the Republic of Armenia and the Minister of Foreign Affairs of the Republic of Armenia shall be entitled without any special authority to negotiate an international treaty of the Republic of Armenia and sign it.

The head of a department of the Republic of Armenia shall be entitled without any special authority to negotiate an interdepartmental treaty of the Republic of Armenia and sign it.

2. Persons who have received special authority for that shall be also entitled to negotiate and sign an international treaty of the Republic of Armenia.

The special authority to negotiate the conclusion and sign an international treaty shall be given by:

- a) the President of Republic of Armenia in respect of an interstate treaty;
- b) the Prime Minister of the Republic of Armenia in respect of an intergovernmental treaty;
- c) a head of a Department of the Republic of Armenia in respect of an interdepartmental Treaty to be concluded on behalf of that department.

Authority shall be given also for pre-signing of an international treaty in accordance with the procedure defined in this item.

Granting of special authority in cases stipulated in this item shall be carried out by the power of attorney given by a relevant competent official in accordance with the defined procedure.

17. Pre-signing of an International Treaty of the Republic of Armenia

1. Pre-signing of an international treaty is a stage of its conclusion at which an authorized person shall give a preliminary consent of the Armenian party to the written text through making notes on each page of that treaty in accordance with the legislation of the Republic of Armenia after which the treaty is ready to be signed in the established order by the Republic of Armenia.

2. An international treaty may be pre-signed by the Armenian party only after completing all activities envisaged by this Law for drafting and pre-signing of the draft treaty, unless otherwise provided by the instruction (item 2 of Article 10 of this law) to conclude such a treaty.

Before pre-signing an international treaty the Ministry of Foreign Affairs of the Republic of Armenia shall agree with the other party upon the location and date of its pre-signing and shall notify of the official representative or the composition of the delegation of the Armenian party.

Pre-signing of an international treaty shall be equal to sending of the final text of the treaty to the other party and the submission of an official notice of the consent with the text to the Armenian party, if it has been impossible for some reason to execute the pre-signing.

3. The text of the pre-signed international treaty may be amended only if the parties have made, before signing the treaty, an additional arrangement to introduce into it certain more precise definitions or corrections.

Article 18. Signing of an International Treaty of the Republic of Armenia

1. Signing of an international treaty is a stage of its conclusion which shall terminate the negotiating of the treaty and during which the pre-signed treaty shall be signed on behalf of the Republic of Armenia, as confirmation of the final consent with the text, by a person vested with such powers or special authority by this law, after which the treaty shall be deemed concluded for the Republic of Armenia or is subject to ratification or approval in accordance with the procedure defined in this law.

2. The text of a signed international treaty shall not be subject to modifications.

If provisions of an international treaty subject to ratification by the National Assembly of the Republic of Armenia have been recognized as contradicting the Constitution of the Republic of Armenia by the Constitutional Court of the Republic of Armenia, the text of that treaty may be modified by the procedure defined in this law, signed on the new basis and submitted for ratification after the removal of the provisions contradicting the Constitution of the Republic of Armenia.

The requirements of this law concerning the concordance and the pre-signing of the international draft treaty are not binding in this case, unless there is another arrangement with the other party.

3. If an interstate treaty stipulates that it enters into force (action) from the moment of its signing or it may be temporarily applied before entering into force, the person from the party of the Republic of Armenia vested with powers or special authority to sign that treaty shall be obliged to come during the negotiations to an agreement with the other party that the treaty shall enter into force after its ratification. If the agreement is not reached, the person authorized from the party of the Republic of Armenia while signing a treaty that includes such provisions shall make provisos, stating that the treaty shall enter into force or shall be applied in the Republic of Armenia in accordance with the procedure defined by this law.

The norms of this item shall be also applied to the intergovernmental and interstate treaties subject to ratification or approval in accordance with the norms of sub-items "a", "b" and "c" of item 2 of Article 23, as well as of Article 24 of this law by the National Assembly of the Republic of Armenia, the President of the Republic of Armenia or the Government of the Republic of Armenia respectively.

4. Reaching an agreement on the establishment of relations in a relevant area between parties by the exchange of notes through diplomatic channels shall be recognized equal in strength to the signing of an international treaty of the Republic of Armenia.

5. The Republic of Armenia may also sign in accordance with the norms of the international law and the procedure defined by this law an open for signing international treaty, in the drafting, as well as the pre-signing and the presentation for signing activities of which it did not participate.

Article 19. Special Cases of Undertaking Obligations by an International Treaty of the Republic of Armenia

The Government of the Republic of Armenia has the right, within the framework of the volumes defined for the present year by the Law of the Republic of Armenia on the State Budget, to conclude, for the purpose of preparation of an international treaty stipulating credit, guarantee or other financial obligations for the Republic of Armenia, a preliminary treaty that shall enter into force and shall be applied by the procedure of that treaty without keeping to the procedures of this law, as well as to use the financial and other means stipulated for the preparation of the international treaty and the execution of the obligations connected with the treaty.

Article 20. Language of an International Treaty of the Republic of Armenia

1. Drafts of bilateral and multilateral international treaties of the Republic of Armenia shall be drafted and concorded with the interested departments of the Republic of Armenia in the Armenian language..

If the draft of a bilateral or multilateral international treaty has been submitted by a foreign state or other subject of international law, it shall be subject to translation into Armenian.

The text of an international treaty shall be agreed upon with the other party (parties) in a foreign language, unless otherwise agreed upon during negotiations.

2. The preparation of the texts of international treaties in Armenian and foreign languages or their translation into Armenian (if the draft treaty has been received from the other party) shall be assigned to the competent department.

3. One copy of the bilateral international treaty shall be signed in Armenian.

4. A multilateral international treaty shall be signed in a foreign language, as well as in Armenian, if so stipulated by this international treaty.

5. The identity of the text of an international treaty being signed in Armenian with the text simultaneously signed in a foreign language shall be confirmed by the Ministry of Foreign Affairs of the Republic of Armenia.

6. The competent departments shall be responsible in accordance with the procedure defined by this article to translate into Armenian an international treaty signed in a foreign language. The identity of the Armenian translation with the text of an international treaty signed in a foreign language shall be confirmed by the Ministry of Foreign Affairs of the Republic of Armenia. The identified Armenian text (the official translation) is equivalent to the text of the international treaty signed in a foreign language.

Article 21. Ratification, Approval or Acceptance of an International Treaty of the Republic of Armenia

Ratification or approval of an international treaty of the Republic of Armenia is a stage of its conclusion at which an appropriate resolution is adopted in regard of the international treaty signed by the Armenian party by a competent body of the Republic of Armenia by the procedure defined by this law, and on the basis of that the treaty shall be recognized binding for the Republic of Armenia from the moment of its entering into force, Should an international treaty signed by the Armenian party stipulate its adoption, the resolution adopted by the competent body by the procedure defined by this law on the ratification or approval of that treaty shall replace the resolution on adoption of the treaty.

Article 22. Accession to an International Treaty

1. The Republic of Armenia may join, in accordance with the norms of the international law, an international treaty that entered into force in which it does not represent a party to the Treaty.

2. The President of the Republic of Armenia, the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia, the departments, as for the issues concerning their sphere of activity or competence, may come up with an initiative to join an international treaty.

The Ministry of Foreign Affairs of the Republic of Armenia may also come up with an initiative to join an international treaty on issues within the competence of another department by means of presentation to the latter of an appropriate proposal.

More than one interested department may come up with an initiative to join an international treaty. On of them, in this case, shall act as the principal initiator responsible for substantiating the expediency of accession to this treaty and its further developments.

3. The instructions to join an international treaty may be given by:

- a) the President of the Republic of Armenia in regard of joining interstate, intergovernmental and interdepartmental treaties;
- b) the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia in regard of joining intergovernmental and interdepartmental treaties except the treaties relating to the Central Bank and the Office of the General Procurator.

4. In accordance with items 2 and 3 of this article to implement the proposal or the instruction for joining the international treaty shall carry out the translation into Armenian of the treaty to be joined, the identity of which shall be confirmed by the Ministry of Foreign Affairs. The competent department shall submit to the Ministry of Foreign Affairs of the Republic of Armenia the international treaty together with the substantiation of its expediency.

5. The Ministry of Foreign Affairs of the Republic of Armenia shall study within 10 days from the time of their receipt the proposals of the relevant departments and shall submit to the President of the Republic of Armenia or the Government of the Republic of Armenia for approval all documents or their copies related to joining the international treaty together with the respective opinion of the Ministry.

The department that has made the initiative to join this treaty shall be informed through the Ministry of Foreign Affairs if the proposal for joining the treaty is approved respectively by the President of the Republic of Armenia or the Government of the Republic of Armenia by a relevant resolution.

The President of the Republic of Armenia or the Government of the Republic of Armenia may in addition give certain instructions in regard of the issues related to the joining of this treaty.

6. The Republic of Armenia may join an international treaty through the adoption of a resolution by the competent body defined in this law on the Republic of Armenia's joining this

international treaty, and this shall be a reason in accordance with the procedure defined by this law to recognize it as binding for the Republic of Armenia and to recognize the Republic of Armenia as a party to that treaty.

Article 23. The Procedure of Ratification, Approval and Accession to an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia shall be ratified by the National Assembly of the Republic of Armenia and by the President of the Republic of Armenia.

2. The National Assembly of the Republic of Armenia shall ratify the interstate treaties. The National Assembly of the Republic of Armenia shall also ratify the intergovernmental and interdepartmental treaties that:

a) shall be connected with the receipt or provision of credits, loans or guarantees or the creation of other direct financial obligations for the Republic of Armenia.

The tax and other privileges of compulsory payments and the commitments to make lump sum or regular monetary contributions for the maintenance of international organizations and formation of interstate (intergovernmental) funds shall be, in particular, regarded in accordance with this law as other direct financial obligations.

The other direct financial obligations shall not include, in particular, the commitments relating to business trips, reception of foreign citizens and leasing of apartments or other property;

b) shall contain provisions contradicting the laws of the Republic of Armenia;

c) shall contain norms that would require making amendments to the laws or adoption of the new laws of the republic of Armenia.

3. The President of the Republic of Armenia shall ratify all intergovernmental treaties except for the cases stipulated in item 2 of this article.

4. If the interdepartmental treaty is not in accordance with sub-items “a”, “b” and “c” of item 2 of this article subject to ratification by the National Assembly of the Republic of Armenia, but it contains provisions contradicting the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia, or the parties have envisaged its approval, the treaty shall then be approved by:

a) the President of the Republic of Armenia, if the interdepartmental treaty contradicts the decrees of the President of the Republic of Armenia or it has been concluded on behalf of the Central Bank or the Office of the General Procurator;

b) the Government of the Republic of Armenia, if the treaty has been concluded on behalf of other departments of the Republic of Armenia.

5. the National Assembly of the Republic of Armenia, the President of the Republic of Armenia, the Government of the Republic of Armenia, the relevant department shall make a decision on the accession of the Republic of Armenia to an international treaty entered into force in conformity with the norms of the international law taking into account the requirements of items 2 and 3 of this article and article 24 of this law.

If the interdepartmental treaty to be joined contains provisions contradicting the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia, it shall be submitted in accordance with item 4 of this article for approval to the President or the Government of the Republic of Armenia respectively.

Article 24. Special Procedure for Ratification or Approval of an International Treaty of the Republic of Armenia.

The intergovernmental and interdepartmental treaties, that has been drafted and signed within the framework of the volumes of external loan approved for a given year by the Law of the Republic of Armenia on the State Budget, and stipulate for the Republic of Armenia credit, guarantee or other financial obligations, as well as the interstate, intergovernmental and interdepartmental treaties stipulating the provision to the Republic of Armenia of humanitarian aid, donation or financial grants or relating to technical and economic and financial cooperation that do not impose reciprocal equivalent obligations on the Armenian party even if they stipulate privileges as for tax, customs, state duty and other compulsory payments shall be:

- a) ratified or approved by the President of the Republic of Armenia if the treaty is respectively an interstate or intergovernmental treaty or it is concluded on behalf of the Central Bank or the Office of the General Procurator
- b) approved by the Government of the Republic of Armenia if the treaty is an interdepartmental one.

Article 25. Submission of an International Treaty of the Republic of Armenia for Ratification, Approval or Accession

1. In order to submit an international treaty for ratification, approval or accession the Ministry of Foreign Affairs of the Republic of Armenia shall ensure by the procedure defined by this law the receipt of the following documents:

- a) the substantiating paper of the Department of the Republic of Armenia responsible for conclusion of the treaty concerning the expediency of its ratification, approval or accession:
- b) the opinion of the Ministry of Justice of the Republic of Armenia whether the provisions of the treaty contradict or do not contradict the legislation of the Republic of Armenia,
- c) the opinion of the Ministry of Finance and Economy of the Republic of Armenia whether the provisions of the treaty provide or do not provide direct financial obligations for the Republic of Armenia,
- d) the memorandum of the Ministry of Foreign Affairs of the Republic of Armenia whether the party to the treaty, be it a foreign state or any other subject of the international law, ratified or approved the treaty or whether it entered into force for them.

The departments of the Republic of Armenia shall submit the documents specified in sub-items "a", "b" and "c" of this item to the Ministry of Foreign Affairs within 10 days following the receipt of a notice from the latter.

2. The Ministry of Foreign Affairs of the Republic of Armenia within 30 days following the receipt of the documents specified in item 1 of this article shall submit them together with the international treaty to the President of the Republic of Armenia or the Government of the Republic of Armenia respectively.

Article 26. Signing of an International Treaty by the President of the Republic of Armenia

If an intergovernmental treaty of the Republic of Armenia signed by the President of the Republic of Armenia is not subject in accordance with this law to ratification by the National Assembly of the Republic of Armenia, it shall be considered ratified from the moment of its signing.

Article 27. Submission of an International Treaty for Ratification by the National Assembly of the Republic of Armenia

An international treaty subject to ratification by the National Assembly of the Republic of Armenia shall be preliminarily submitted by the President of the Republic of Armenia to the Constitutional Court of the Republic of Armenia in order to receive the Court's decision on compliance of obligations confirmed by the treaty with the Constitution of the Republic of Armenia.

If a positive decision is adopted by the Constitutional Court of the Republic of Armenia, the President of the Republic of Armenia shall submit the international treaty for ratification by the National Assembly of the Republic of Armenia.

Article 28. An International Treaty Contradicting the Constitution of the Republic of Armenia

1. If the Constitutional Court of the Republic of Armenia has adopted a decision that obligations confirmed by the treaty contradict the Constitution of the Republic of Armenia, the President of the Republic of Armenia proceeding from the significance of the treaty for the Republic of Armenia may:

- a) assign the Government of the Republic of Armenia to negotiate with the other party to the treaty in order to change or remove the norms that stipulate obligations contradicting the Constitution of the Republic of Armenia and submit the treaty in accordance with the defined procedure for ratification,

b) decide that it is inexpedient to conclude the treaty and shall instruct to necessarily notify of this the other party to the treaty through diplomatic channels.

2. If the Republic of Armenia is interested in ratifying an international treaty that contains provisions contradicting the Constitution of the Republic of Armenia without the removal of these provisions from the treaty, the mentioned treaty may be ratified by the National Assembly only if appropriate amendments are made to the Constitution of the Republic of Armenia in accordance with the defined procedure.

Article 29. Legal Acts to Ratify, Approve, Access an International Treaty or Renounce it

1. The National Assembly of the Republic of Armenia shall adopt a resolution, and the President shall pass a decree on ratification, accession or renunciation of an international treaty. The President of the Republic of Armenia shall pass a decree, and the Government of the Republic of Armenia shall adopt a resolution on approval or renunciation of an interdepartmental treaty.

2. If the National Assembly of the Republic of Armenia, the President of the Republic of Armenia or the Government of the Republic of Armenia have adopted a resolution (a decree) on non-ratification, non-approval and non-accession to an international treaty, then the treaty may be submitted, if necessary, for another ratification, approval by maintaining the procedure stipulated in this law.

Should the treaty be not ratified, approved or accessed for the second time, it may no longer be submitted for ratification, approval or accession, unless otherwise decided by the competent body.

3. If an intergovernmental or interdepartmental treaty in accordance with the requirements of this law has entered into force or is subject to temporary application from the moment of its signing, and if in accordance with this law it is subject to ratification or approval by the President of the Republic of Armenia or the Government of the Republic of Armenia, and they have refused to ratify or approve it and have not made another decision, the competent department shall take measures in accordance with the norms of the international law through the Ministry of Foreign Affairs of the Republic of Armenia to stop the action of this treaty for the Republic of Armenia.

Article 30. The Entering into Force of an International Treaty of the Republic of Armenia

1. The entering into force of an international treaty of the Republic of Armenia is the final stage of its conclusion, when following the ratification, approval or accession to the treaty in accordance with norms of international law and requirements of this law the final organizational and legal arrangements necessary for the emergence of rights and obligations specified in the treaty shall be implemented, on or after completion of which the treaty shall be deemed concluded and the rights and obligations emerged from the moment stipulated by the treaty.

The recognition (declaration) by of the Republic of Armenia in accordance with the norms of the international law that it is the legal successor of an international treaty shall be equal in strength to the conclusion of the international treaty.

2. An international treaty of the Republic of Armenia ratified, approved or accessed to in accordance with in the procedure defined by this law shall enter into force:

a) upon its ratification, approval or accession to in accordance with the procedure stipulated by the treaty

b) upon the official promulgation of the international treaty, if the treaty refers to issues of human rights, liberties and obligations,

c) from the moment of its signing or from another moment stipulated by the treaty, if it is an intergovernmental or interdepartmental treaty and is not subject in accordance with the norms of articles 23 and 24 of this law to ratification or approval by the National Assembly, the President or the Government of the Republic of Armenia respectively.

Article 31. Special Requirements for Entering into Force and Temporary Application before Entering into Force of an International Treaty of the Republic of Armenia

1. If an international treaty signed by the Republic of Armenia stipulates that it shall enter into force from the moment of signing or it may be temporarily applied by the defined procedure prior to its entering into force and the requirement to make a proviso referred to in item 3 of Article 18 of

this law has not been ensured at the moment of signing of the treaty, then the following rules shall be applied to such an international treaty, if:

a) the treaty has been signed on behalf of the Republic of Armenia or it is classified as an intergovernmental or interdepartmental treaty referred to in sub-item "a" of item 2 of article 23 of this law, then provisions related to its entering into force from the moment of signing or to its temporary application shall not be applied in the Republic of Armenia, until they become effective in accordance with the procedure defined by this law;

b) the treaty contains provisions contradicting the laws of the Republic of Armenia or requiring amendments thereto or adoption of new laws, then provisions related to its entering into force from the moment of signing or to its temporary application shall be effective for the Republic of Armenia till the treaty enters into force in accordance with the procedure defined in this law only in regard of the obligations or norms stipulated in the treaty that do not contradict the laws of the Republic of Armenia.

2. Should the procedures stipulated in this law for entering into force of the international treaty referred to in sub-item "b" of item 1 of this article shall not be completed within one year following the signing of that treaty, the action of the treaty specified in the mentioned sub-item shall be subject to termination for the Armenian party.

Article 32. Making Provisos to an International Treaty

The Armenian party may make or cancel provisos to an international treaty, while signing or ratifying, approving or joining it by the procedure defined in this law, as well as accept or object in accordance with the norms of international law and the requirements of this law against the provisos made to the same treaty by the other party.

The relative norms of the international law and this Law shall be applied to the legal consequences of the provisos and the objections thereto made in regard of an international treaty.

Article 33. Signing of a Deed or a Declaration in Regard of an International Treaty of the Republic of Armenia

1. The President of the Republic of Armenia shall sign the international treaties ratified by the National Assembly.

The President of the Republic of Armenia shall sign a deed in regard of the international treaty stipulated in this item, by which the other party to the treaty or its depositary shall be notified that the treaty has been ratified by the Republic of Armenia and it has become, thus, binding for the Republic of Armenia.

2. The President of the Republic of Armenia shall sign a declaration in regard of the resolutions adopted by the National Assembly of the Republic of Armenia on accession to an international treaty, by which the other party to a treaty or its depositary shall be notified of the accession of the Republic of Armenia to that treaty.

The deeds and declarations signed by the President of the Republic of Armenia shall be confirmed by the seal of the Republic of Armenia and the signature of the Minister of Foreign Affairs of the Republic of Armenia.

3. The Minister of Foreign Affairs of the Republic of Armenia in accordance with the procedure defined by this law shall sign and confirm by the seal of the Ministry of Foreign Affairs of the Republic of Armenia the deed in regard of an international treaty ratified or approved by the President of the Republic of Armenia or approved by the Government of the Republic of Armenia, as well as the declarations in regard of the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia on the accession to international treaties.

Article 34. Conclusion of Another International Treaty Arisen from an International Treaty of the Republic of Armenia in Force

1. Another international treaty arisen from the international treaty of the Republic of Armenia that has come into force by the procedure defined in this law may be concluded, if the treaty in

force contains such a requirement or the conclusion of a new international treaty is necessary to ensure the discharge of the obligations undertaken by the treaty in force.

2. The new international treaty arisen from an international treaty of the Republic of Armenia in force shall be signed by the procedures of this law for signing an international treaty, if the treaty in force does not stipulate another procedure, or the newly concluded treaty does not stipulate such additional provisions that are subject in virtue of this law to ratification by the National Assembly of the Republic of Armenia.

Article 35. Amendments, Additions and Corrections to an International Treaty of the Republic of Armenia in Force

1. Amendments, additions and corrections may be made to an international treaty of the Republic of Armenia that has come into force by the procedure defined in this law.

The procedures for conclusion of an international treaty provided for in this law shall be applied whilst making amendments and additions, unless the treaty has defined a different procedure, or unless the amendments and additions has stipulated provisions that are subject to ratification in virtue of this law by the National Assembly of the Republic of Armenia.

The corrections in an international treaty shall be made in accordance with the norms of the international law.

2. If not otherwise stipulated by an international treaty of the Republic of Armenia, its terms and conditions shall be interpreted on the basis of the littoral meaning of the words and phrases contained in it. If the littoral meaning of a condition in a treaty is not clear, it shall be defined by means of comparing it with the other terms and conditions and the comprehensive meaning of the treaty.

If the rules stipulated in this item do not make it possible to determine the contents of a treaty, it shall be necessary to find out what the true common will of the parties is, by taking into account the goal of the treaty. All relevant circumstances including the negotiations and correspondence preceding the treaty, the regular manner of working within the framework of mutual relationship, the future conduct of the parties shall be at the same time taken into account.

CHAPTER IV
STATE REGISTRATION, DEPOSITING AND PROMULGATION OF AN INTERNATIONAL
TREATY OF THE REPUBLIC OF ARMENIA

Article 36. State Registration of an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia that has come into force in accordance with the procedure defined by this law shall be subject to registration in the General Register for State Registration of International Treaties of the Republic of Armenia.

The General Register for State Registration of International Treaties of the Republic of Armenia shall be kept by the Ministry of Foreign Affairs.

The procedures and terms for state registration of international treaties of the Republic of Armenia and for filling-in and guarding of the general register of State registration of these treaties shall be defined by the Government of the Republic of Armenia.

2. The Ministry of Foreign Affairs of the Republic of Armenia shall submit an international treaty of the Republic of Armenia that has come into force in accordance with the procedure defined by this law to the United Nations Organization, as well as to other international organizations, of which the Republic of Armenia is a member, and the founding or any other documents of which stipulate that the international treaties of the member states shall be subject to registration or depositing in these organizations.

Article 37. Depositing of an International Treaty of the Republic of Armenia and Sending its Copies to Competent Bodies

1. The depositary of bilateral international treaties in the Republic of Armenia shall be the Ministry of Foreign Affairs of the Republic of Armenia.

If a multilateral international treaty stipulates that its depositary is the Republic of Armenia, then the functions of the depositary of that treaty shall be exercised by the Ministry of Foreign Affairs of the Republic of Armenia.

2. Within two weeks following the signing of an international treaty its original (a copy certified in the established procedure, its official translation) shall be deposited with the Ministry of Foreign Affairs of the Republic of Armenia.

3. Within one month following the coming into force of an international treaty of the Republic of Armenia the Ministry of Foreign Affairs of the Republic of Armenia shall send its copy with a note that the treaty has entered into force to the personnel of the National Assembly of the Republic of Armenia, of the President of the Republic of Armenia and of the Government of the Republic of Armenia, as well as to the Ministry of Justice and other competent departments of the Republic of Armenia.

4. The Ministry of Foreign Affairs of the Republic of Armenia shall provide the bodies mentioned in item 3 of this article with the information related to the cancellation, renewal and suspension of an international treaty of the Republic of Armenia, as well as with the information in regard of the prolongation of the action of a treaty, the term of which has expired.

Article 38. Official Promulgation of an International Treaty of the Republic of Armenia

1. An international treaty that has come into force in accordance with the procedure defined by this law shall be promulgated in “The Official Bulletin of International Treaties of the Republic of Armenia”.

“The Official Bulletin of International Treaties of the Republic of Armenia” is an official periodical of the Ministry of Foreign Affairs of the Republic of Armenia published in the regularity established by the Ministry of Foreign Affairs of the Republic of Armenia.

2. The international treaties of the Republic of Armenia relating to human rights, liberties and obligations shall be promulgated as well in “The Official Bulletin of the Republic of Armenia” in accordance with the procedure defined by the legislation in regard of promulgation of laws and other normative legal acts of the Republic of Armenia.

CHAPTER V

EXECUTION OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA

Article 39. Execution of an International Treaty of the Republic of Armenia

An international treaty of the Republic of Armenia that has come into force by the procedure defined in this law shall be subject to unconditional execution by the Republic of Armenia.

The Republic of Armenia shall refrain while executing an international treaty of the Republic of Armenia that has come into force from performance of actions, which may contradict the objectives and subject matter of the treaties.

Article 40. Ensuring the Execution of an International Treaty of the Republic of Armenia

The President of the Republic of Armenia, the Government of the Republic of Armenia and the Prime Minister of the Republic of Armenia shall take relevant organizational and legal measures within their jurisdiction to ensure the discharge of obligations undertaken by the Republic of Armenia under an international treaty.

Article 41. Executors of an International Treaty of the Republic of Armenia

1. The departments of the Republic of Armenia that have jurisdiction over the issues regulated by an international treaty of the Republic of Armenia shall ensure by it the discharge of obligations undertaken by the Republic of Armenia, shall exercise the rights of the Armenian party arising from the treaty and shall take measures to ensure the discharge of its (their) obligations by the other party (parties) to the mentioned treaty.

2. Proceeding from the nature of relations (interstate trade, defense of borders, stimulation of investment etc.) regulated by an international treaty of the Republic of Armenia and from the scope, significance and peculiarities of the obligations envisaged by it, other departments and

other bodies of state, as well as of local self-government of the Republic of Armenia may be invited to be involved in the work of execution of that treaty.

3. Commercial and non-commercial organizations, institutions, as well as natural persons of the Armenian party and of the other party to an international treaty may participate in accordance with the procedure defined by this treaty, the legislation of the Republic of Armenia and that of the other party or other legal acts in the execution of the mentioned treaty, if their participation arises from this treaty.

4. The departments, other state bodies, bodies of local self-government, commercial and non-commercial organizations, institutions and natural persons mentioned in items 1-3 of this article shall communicate during the execution of a treaty of the Republic of Armenia with respective bodies, organizations, institutions and natural persons of the other party to this treaty through the Ministry of Foreign Affairs of the Republic of Armenia, if the treaty mentioned does not envisage a different procedure.

Article 42. Systemization of Execution of an International Treaty of the Republic of Armenia

The Ministry of Foreign Affairs of the Republic of Armenia shall supervise the execution of an international treaty of the Republic of Armenia. To this end, the Ministry of the Republic of Armenia shall be entitled to get acquainted in accordance with the procedure defined by the legislation with the state and the process of execution of an international treaty in competent departments and to systematize the work of the departments of the Republic of Armenia performed for the execution of an international treaty.

Proceeding from the state of execution of an international treaty, the Ministry of Foreign Affairs of the Republic of Armenia may submit, if necessary, appropriate proposals to the President of the Republic of Armenia, the Government of the Republic of Armenia or the Prime Minister of the Republic of Armenia.

CHAPTER VI
SUSPENSION AND TERMINATION OF ACTION OF AN INTERNATIONAL TREATY OF THE
REPUBLIC OF ARMENIA

Article 43. Suspension of Action of an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia that has come into force by the procedure defined in this law may be suspended in cases and by the procedure envisaged in the treaty with the consent of all parties to the treaty on condition that it has been consulted with other states, as well as in cases stipulated by the norms of the international law.

2. The action of an international treaty may be also suspended, if:

- a) the Republic of Armenia is unable by objective reasons to timely and properly discharge its undertaken obligations in case of war or other military situation, economic or other blockade, earthquake, other natural disaster or other force major.
- b) the other party (parties) to an international treaty substantially violates (violate) its direct obligations under the treaty and jeopardizes the execution of that treaty,
- c) the other party (parties) to an international treaty has suspended the action of that treaty.

In cases set forth in this item the suspension of an international treaty of the Republic of Armenia shall be executed by notification of the other party (parties) through diplomatic channels and obtaining the consent of that party, if necessary.

The notification on suspension of an international treaty of the Republic of Armenia shall mention the reasons for suspension, as well as the term of suspension, if possible.

The suspension of an international treaty of the Republic of Armenia shall commence from the moment of notification of the other party about it through diplomatic channels or of the receipt of the official consent of the other party by

3. The action of the treaty shall be renewed upon elimination of the circumstances that have become a reason for the suspension of an international treaty of the Republic of Armenia. The Ministry of Foreign Affairs of the Republic of Armenia shall notify the other party (parties) thereof.

Article 44. Termination of Action of an International Treaty of the Republic of Armenia

1. The action of an international treaty that has come into force by the procedure defined in this law may be terminated (lose its force) in accordance with the procedure envisaged by that treaty and from the moment of:

- a) expiration of the term of an international treaty concluded for a certain period, if the term is not prolonged by the procedure defined in that treaty;
- b) notification by the Armenian party or the other party of the termination of an international treaty concluded for an uncertain period, if the term envisaged by the treaty has expired following that moment;
- c) the Republic of Armenia's coming out from that treaty by the procedure defined in the multilateral treaty;

The action of an international treaty of the Republic of Armenia may also be terminated, if the other party to an international treaty has ceased to exist as a subject of the international law, except in the cases when the party has been substituted by some other subject of international law, which has undertaken the obligations of the non-existing subject as its legal successor, as well as when a new (successive) treaty on the same issue has been concluded.

2. If an international treaty does not stipulate provisions on termination of its action, the termination (loss of force) of its action may be executed in accordance with the procedure defined by the norms of the international law.

Article 45. Invalidation of an International Treaty of the Republic of Armenia

The action of an international treaty that has entered into force by the procedure defined in this law may also be terminated by declaring its invalidation. The unilateral declaration of an international treaty of the Republic of Armenia as invalidated by the Republic of Armenia shall be the decision not to recognize this treaty by the procedure not defined by this treaty as binding any longer.

An international treaty may be declared invalidated for the Republic of Armenia, if the other party (parties) of the treaty:

- a) has (have) started a war or other military actions against the Republic of Armenia or undertakes (undertake) other actions threatening the constitutional order of the Republic of Armenia,
- b) substantially violates (violate) its own obligations under the treaty, creating as a consequence a situation when the Republic of Armenia does not find the treaty any longer binding,
- c) has (have) declared invalidated an international treaty concluded with the Republic of Armenia.

The Republic of Armenia may declare an international treaty invalidated also in other cases stipulated by the norms of the international law.

An international treaty shall cease to be binding for the Republic of Armenia from the moment the decision on invalidation has been adopted by a competent body, if not otherwise stipulated by this decision.

Article 46. The Procedure of Suspension or Termination of an International Treaty of the Republic of Armenia

1. A proposal to suspend or to terminate an international treaty that has come into force by the procedure defined in this law may be made by:

- a) the President of the Republic of Armenia in respect of an international treaty ratified by the National Assembly of the Republic of Armenia, except for the cases stipulated in sub-item "b" of this item;
- b) the Government of the Republic of Armenia in respect of an international treaty ratified (approved) by the President of the Republic of Armenia;
- c) the Ministry of Foreign Affairs of the Republic of Armenia in respect of remaining international treaties not specified in sub-items "a" and "b" of this item;

The body that makes the proposal shall substantiate the necessity for suspension or termination of an international treaty pointing out the motives.

2. The decision on suspension or termination of an international treaty of the Republic of Armenia shall be adopted by the National Assembly of the Republic of Armenia in respect of an international treaty ratified by it, by the President of the Republic of Armenia in respect of an international treaty ratified by him, or by the head of a competent body in respect of an interdepartmental treaty.

If an interdepartmental treaty of the Republic of Armenia is approved in accordance with this law by the President of the Republic of Armenia or the Government of the Republic of Armenia, the decision on suspension or termination of its action shall be also approved respectively by the President of the Republic of Armenia or the Government of the Republic of Armenia.

3. Within three days following the adoption of a decision by a competent body on suspension or termination of an international treaty of the Republic of Armenia, the Ministry of Foreign Affairs of the Republic of Armenia shall notify through diplomatic channels thereof the other party (parties) to that international treaty.

Article 47. Legal Consequences of Suspension of Action of an International Treaty of the Republic of Armenia

From the moment of suspension of the action of an international treaty of the Republic of Armenia the rights and obligations under the treaty shall temporarily cease to be effective in very entirety or partially for the Armenian party.

In the course of suspension of the action of an international treaty of the Republic of Armenia the Armenian party shall be obliged to refrain from such actions that may impede the renewal of the action of the international treaty.

Article 48. Legal Consequences of Termination of Action of an International Treaty of the Republic of Armenia

1. From the moment of termination of the action of an international treaty of the Republic of Armenia the rights and obligations stipulated by this treaty shall cease to be effective in their entirety for the Armenian party.

If an international treaty of the Republic of Armenia stipulates that the rights and obligations of the parties arisen for the execution of a treaty shall continue to be effective after the termination of its action, then these rights and obligations shall be effective till they are terminated in accordance with the defined procedure.

If an international treaty of the Republic of Armenia stipulates that the economic and other civil and legal treaties concluded in accordance with a treaty shall continue to be effective after the termination of its action, then these treaties shall be effective till they are terminated in accordance with the defined procedure.

2. If in accordance with an international treaty of the Republic of Armenia, the action of which has been terminated, there has been concluded and is effective another international treaty, then the latter shall continue to be effective and may be terminated in accordance with the procedure defined by that treaty, if not otherwise stipulated by the treaty with the terminated action, on the basis of which that treaty has been concluded.

Article 49. Legal Consequences of Invalidation of an International Treaty of the Republic of Armenia

From the moment of invalidation of an international treaty the treaty shall be considered null and void for the Armenian party, and the Republic of Armenia shall by that unilaterally release itself entirely from the execution of rights and obligations under that treaty, as well as from the responsibility for the consequences that may arise from obligations appeared in the course of the action of that treaty prior to its invalidation.

CHAPTER VII
TRANSITIONAL AND CONCLUDING PROVISIONS

Article 50. Transitional Provisions

1. The provisions of this law that will regulate from the moment the law comes into force the relations of a respective stage and the stages that follow it shall be applied to an international treaty of the Republic of Armenia that is still in the stage of conclusion prior to this law coming into force.
2. The procedures of this law stipulated for conclusion of an international treaty shall apply to making amendments and additions to an international treaty of the Republic of Armenia concluded (entered into force) prior to this law coming into force, if the treaty does not stipulate another procedure, or the amendments and additions do not envisage such provisions that shall be subject in virtue of this law to ratification by the National Assembly of the Republic of Armenia.
3. A new international treaty that arises from an international treaty of the Republic of Armenia concluded (entered into force) shall be concluded prior to this law coming into force by procedures defined in this law for conclusion of an international treaty, if the treaty that entered into force does not stipulate another procedure, or if the newly concluded treaty does not stipulate such additional provisions that shall be in virtue of this law subject to ratification by the National Assembly of the Republic of Armenia.

Article 51. Entering into Force of this Law

1. This law shall come into force from the moment of its official promulgation.
2. The law of the Republic of Armenia of June 6, 1992, "On Conclusion, Ratification and Invalidation of International Treaties of the Republic of Armenia" shall be recognized as lost its force from the moment of entering into force of this law.

AUSTRIA

1. Title, rank and position of the Legal Adviser

The Legal Adviser holds the rank of “Head of Group” (see below point 4) and is entitled to carry the title of “Ambassador”.

2. Principal functions of the OLA

The main task of the OLA is to provide legal advice to the Minister and to other services of the Ministry on issues of public international law, European law, human rights law, and international humanitarian law, as well as on international aspects of constitutional matters and domestic law. Additionally, the OLA advises other Ministries on issues of public international law, European law, human rights law, and international humanitarian law.

The Legal Adviser represents Austria in certain legal proceedings and before international courts and tribunals (e.g. ICJ and ECHR, but not ECJ). The Legal Adviser and/or the members of the OLA attend international conferences concerning matters of international law, European law and human rights and participate in bilateral and multilateral negotiations.

In the human rights field the OLA covers not only strictly legal issues but is actively involved in policy formulation and representation of Austria's Position in multilateral fora such as the UN, the Council of Europe and the OSCE, including co-ordination among EU partners if applicable. The Human Rights Department also carries responsibility for matters pertaining to the Human Security Network.

The Treaty Office within the OLA administers the procedural aspects of the conclusion of treaties and keeps a list of the treaties concluded by Austria. In certain cases it fulfils depository functions.

3. Number of staff employed by the OLA

Currently there are about 20 University graduates, mostly lawyers, working in the OLA in Vienna. In principle, the Austrian diplomatic service has no special career track for lawyers and expects every diplomat to be a generalist. However, diplomats who have worked as a lawyer in the OLA tend to return more often to the OLA during their career in order to guarantee a certain degree of specialisation. Since there is no special career track for lawyers, there are no particular legal postings abroad. Nevertheless there are some postings that require legal expertise and that are, therefore, usually for diplomats who have worked in the OLA (e.g. postings at the Permanent Mission to the UN in New York and in Geneva or at the Permanent Representation in Brussels).

4. Organisation of the OLA

The Federal Ministry for Foreign Affairs consists of seven “sections” each of which has several departments. In some cases, departments within a section having a strong thematic link are put together in a “group”.

The OLA is a group directly under the Secretary General of the Foreign Ministry as head of the Central Section I (the present Legal Adviser also being Deputy Secretary General), consisting of three departments: the department for general international law (covering also constitutional and domestic law), the department for European law, and the department for human rights and international humanitarian law. Each department covers its specific issues and provides its respective services to the other departments in the Ministry.

Each department has one or more sub-departments for specialised areas: Treaty Office, multilateral legal issues, environmental law, EU first pillar issues, minorities, and gender issues.

Additionally, the OLA is supported by a consultant, normally a professor of international law. Currently, the consultant is Professor Hafner of the University of Vienna.

5. Place within the Ministry of Foreign Affairs

See above point 3 and 4.

6. Main contacts within Government

The OLA is the principal service within the Government for issues of public international law, general European law, international human rights law, and international humanitarian law. Therefore, the OLA advises other Ministries when they have to deal with these issues.

The OLA has privileged contacts with other legal services of the Government, in particular with the Constitutional Law Service at the Federal Chancellery, the Ministry of Justice and the State attorneys (Finanzprokurator) at the Ministry of Finance.

Since the Legal Adviser represents Austria in certain legal proceedings and before international courts and tribunals, he acts as an agent for the Government (see above point 2).

7. Relations with lawyers in private practice, academics and legal institutions

The OLA is approached on a regular basis by Austrian private lawyers when they have to deal with issues of public international law. In law-suits against Austria abroad the OLA liaises with the private lawyers representing Austria.

The OLA has always had a close relationship with the academic world. Members of the OLA participate in the annual Austrian conference on international law (Völkerrechtstag) and meet with academics on a regular basis to discuss current issues of international law and European law. University assistants working in the field of international law have the possibility to work in the OLA for a certain time. Some of them later join the diplomatic service and work in the OLA.

Furthermore, the Legal Adviser and some members of his staff are holding seminars on international legal issues at the Diplomatic Academy of Vienna and at Austrian universities.

AZERBAIJAN

1. Title, rank and position of the Legal Adviser

The post of the Legal Adviser is not envisaged in the structure of the Ministry of Foreign Affairs of the Republic of Azerbaijan. The functions of a Legal Adviser are being performed by the staff of the International Law and Treaties Department (ILTD) headed by the Director.

The Director of the ILTD and its staff are subordinated to the Deputy Minister of Foreign Affairs.

2. Principal functions

The principal functions of the ILTD are:

- to provide legal advice and give opinions on matters of international law relating to foreign policy;
- to participate and supervise all phases of the conclusion of treaties;
- to report on matters of conclusion, suspension of international treaties, on the status and interpretation of treaties, reservations and objections thereto;
- to perform the functions of depositary of treaties;
- to maintain the Ministry's registrar of international treaties;
- to keep the Azerbaijan's Treaty Archive;
- to participate in the delegations of Azerbaijan to international conferences and meetings with a view to secure the correctness of state's position from the perspective of international public law;
- to follow and evaluate issues of international law and to participate in works of its codification and development;
- to prepare proposals on conclusion of the international treaties on behalf of the Republic of Azerbaijan and the Government of the Republic of Azerbaijan;
- to prepare proposals on ratification, adoption, approval of or accession to the international treaties;
- to provide the preparation, exchange and deposit of the instruments of ratification;
- to inform periodically the Government about the fulfillment of the obligations by Azerbaijan and other Parties of the international treaties;
- to provide the general observation on the implementation of the international treaties by Azerbaijan;
- to prepare proposals to the Government on measures to be taken in accordance with international law in cases when other Parties to the international treaties are failed to fulfill their obligations;
- to prepare proposals to the Government to denounce an international treaty;
- to present an international treaty of Azerbaijan for the official publication;
- to provide the registration of an international treaty of Azerbaijan in the UN General Secretariat and other international organizations.

3. Number of lawyers including overseas staff

There are currently about 19 lawyers in the ILTD, including Director and Deputy Director, all of them graduated in international law or law.

There are no special posts of lawyers abroad. But, traditionally there are posts in some diplomatic missions abroad (Permanent Missions to the UN in New York, Geneva and Vienna, Permanent Representation to the Council of Europe in Strasbourg, Mission to the EU in Brussels) staffed by ILTD's lawyers. However, they are being appointed to the posts in the bilateral embassies as well.

4. Briefly describe the organization and structure of the ILTD

The ILTD is divided into the following units:

- Unit for international law issues in bilateral cooperation;
- Unit for international law issues in multilateral cooperation;
- International treaties unit;
- Human rights and humanitarian law unit;
- Borders issues unit.

The Director is assisted by one Deputy Director and Heads of Units.

5. Place within the Ministry of Foreign Affairs

The ILTD is one of the functional departments of the MFA and carries out its functions under supervision of the Deputy Minister of Foreign Affairs.

6. Main contacts within the Government

In exercising its tasks the ILTD contacts relevant departments of the President's Office, Cabinet of Ministers, other ministries and Government agencies, as well as parliamentary commissions, on issues related to international law and the conclusion and implementation of international treaties.

7. Relations with lawyers in private practice, academics and legal institutions

The ILTD cooperates with different scientific and educational institutions dealing with international law. Some of the ILTD's lawyers lecture in the Baky State University and other institutions on various aspects of international law.

BELGIQUE

1. Quels sont les titre, rang et position du Conseiller juridique?

« Directeur général des Affaires juridiques » du Service public fédéral Affaires étrangères (SPF). Il rapporte au Président du Comité de Direction, dont il est aussi un des membres.

2. Quelles sont les principales fonctions du BCJ?

Il réalise les objectifs de son domaine fonctionnel, en concertation avec les autres services opérationnels et d'encadrement du SPF Affaires étrangères.

Les différents domaines fonctionnels dépendant de son autorité sont :

- droit interne: toutes les questions juridiques en matière de droit interne liées à la gestion du Département (droit du travail et des contrats, droit constitutionnel et administratif, droit civil, ainsi que les litiges portés devant les cours et tribunaux et devant le Conseil d'Etat) ;
- droit européen: concertation et coordination dans le cadre de la mise en œuvre et de l'interprétation du droit européen (questions préjudicielles); défense de l'Etat belge devant les instances juridiques européennes; coordination des Départements ministériels dans le domaine de la transposition du droit européen en droit national ;
- droit international public: toutes les questions juridiques relatives au droit international public ou aux organisations internationales y compris toutes les questions juridiques concernant le fonctionnement et le statut des cours et tribunaux internationaux; représentation de la Belgique au sein des organes de l'ONU, du Conseil de l'Europe, de l'Union européenne dans lesquels ces thèmes sont traités; défense des intérêts de l'Etat devant les cours et tribunaux internationaux ;
- droit des traités: gestion de tous les aspects formels de la conclusion des traités de caractère fédéral et mixte (compétences fédérales / communautaires et régionales), depuis la signature jusqu'à leur approbation; mission de dépositaire pour plus de 60 conventions multilatérales; rôle de cellule d'information pour toutes questions en rapport avec l'état d'avancement des traités; mener à bien la ratification de ceux-ci ; le « BCJ » joue aussi un rôle dans les relations avec les Communautés et les Régions de Belgique : application et évaluation des accords de coopération en vigueur avec les entités fédérées, y compris l'arbitrage des divergences de positions.

3. Description du personnel employé

La Direction générale (BCJ) compte un effectif moyen de 45 personnes (équivalant à 30 temps plein), dont une quinzaine de juristes. Il n'y a pas de fonctionnaires en poste à l'étranger. Toutefois le SPF Affaires étrangères utilise, dans certains postes spécifiques (missions au siège des principales organisations internationales), les compétences juridiques de certains diplomates. Elle peut aussi faire appel à la collaboration temporaire d'hommes de loi extérieurs.

4. Organisation et structure

La Direction générale (BCJ) est structurée en 4 directions ou sections : droit interne, droit européen, droit international public et droit des traités. Elle est dotée d'un secrétariat.

5. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères

Les services du BCJ du SPF Affaires étrangères sont organisés en une direction générale - une des six directions générales - du département. Elle occupe une position centrale en inter-relation avec toutes les autres dans la mesure où elle fournit des conseils juridiques pour la plupart des matières traitées au département.

6. Principaux contacts du BCJ au sein du Gouvernement.

Au sein du SPF Affaires étrangères, le BCJ peut être en contact avec le cabinet ministre des Affaires étrangères ou avec le ministre directement. Il peut prendre contact avec le cabinet des autres membres du Gouvernement.

7. Relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques

Le BCJ entretient des contacts réguliers avec plusieurs cabinets d'avocats spécialisés, lesquels peuvent être sollicités pour donner des avis dans certaines affaires litigieuses ou aider le BCJ dans l'exercice de sa fonction de représentant de l'Etat belge devant les juridictions nationales ou internationales. Le BCJ entretient également des contacts avec des professeurs d'universités et des instituts de science juridique, soit pour les besoins spécifiques du département, soit pour des échanges scientifiques.

BULGARIA

1. Title, rank and position of the Legal Adviser

The post of the Legal Adviser is not envisaged in the structure of the Ministry of Foreign Affairs of the Republic of Bulgaria. The function of the Legal Adviser performs the Director of the International Law Directorate who is traditionally a lawyer and a career diplomat.

2. Principal functions of the International Law Directorate

The main tasks of the International Law Directorate include:

- providing legal advice and opinions to the Minister of Foreign Affairs in the conducting of the foreign policy of Bulgaria with international legal means, preparing of opinions on matters of international law, participating in the collaboration of concepts of international legal character;
- providing opinions on the procedure for drafting and conclusion of international treaties by the Republic of Bulgaria, as well as opinions on performance, amendment, suspension, termination and registration of the international treaties to which Bulgaria is a party; opinions on their interpretation; participating in the process of drafting and conclusion of international treaties by the Republic of Bulgaria;
- giving assistance to the Minister of Foreign Affairs in the performance of his/her tasks, arising from the Bulgarian legislation into force and regarding the participation of Bulgaria into international treaties; informing the Minister for cases of non-observance of international treaties;
- preparing of international legal analysis and proposals for settlement of international law matters, arising in the process of work of the diplomatic missions of the Republic of Bulgaria abroad;
- providing cooperation for the protection of interests and rights of the Bulgarian state with regard to the territory of the state and spaces on which it exercises its territory jurisdiction, as well as the protection of the rights of the Republic of Bulgaria in spaces outside the national jurisdiction of states;
- elaborating the position of Bulgaria on issues of the Sixth Committee of the General Assembly of the United Nations and participating in its sessions;
- elaborating proposals for position of the Bulgarian Government on candidatures of officials in bodies of international organizations, dealing with legal issues, as well as opinions on candidatures for judges of the ICJ, ICC, ICTY, ICTR and so on;
- collaboration with the Ministry of Internal Affairs and giving assistance to it in the performance of obligations of the Republic of Bulgaria, arising from its membership in INTERPOL;
- preparing of full letters for conducting negotiations and conclusion of international treaties to which Bulgaria is a party, as well as of full letters for participation in international conferences and so on;
- providing assistance to the Minister of Foreign Affairs in the performance of functions of keeping and registration of the international treaties to which Bulgaria is a party, as well as in the performance of the Minister's depositary functions.

3. Description of staff employed by the of the International Law Directorate, including overseas staff

There are currently Legal Advisers, supported by 5 secretarial and registry staff.

The International Law Directorate has no special legal postings abroad. However, traditionally there are posts in some missions and embassies (Permanent Missions to UN in New York and Geneva, Permanent Representation to the Council of Europe in Strasbourg, Embassy in the Hague, Embassy in London and Embassy in Germany), staffed by legal advisers, delegated from the International Law Directorate.

Legal Advisers from the International Law Directorate are posted abroad as well as consuls of the Republic of Bulgaria.

4. Description of organization and structure of the International Law Directorate

The International Law Directorate consists of three divisions (units);

- International Public Law;
- International Private Law;
- International Treaties Information.

Each of these sections has its own head who is a senior Legal adviser. All legal advisers respond to requests concerning issues of international law but in practice each of them specializes on certain matters (NATO, EU, Sea Law, International Criminal Court, UNCITRAL and so on.)

There are four ranks within Legal Advisers in descending order:

- State Expert;
- Chief Expert;
- Senior Expert and
- Junior Expert.

5. Place of the International Law Directorate within the Ministry of Foreign Affairs

The International Law Directorate is one on the 17-th Directorates, which form the specialized administration of the Ministry of Foreign Affairs.

The International Law Directorate is subordinated to a Deputy-Minister of Foreign Affairs and in specific cases reports directly to the Minister of Foreign Affairs.

6. Main contacts of the International Law Directorate within Government

The International Law Directorate respond to requests concerning international law issues of: other Directorates within the Ministry of Foreign Affairs, other ministries, diplomatic missions, consulates and permanent missions of the Republic of Bulgaria abroad, as well as missions of other states in Bulgaria, non-governmental organization, Bulgarian and foreign nationals and etc.

7. Relations of the International Law Directorate with lawyers in private practice, academics and legal institutions

The International Law Directorate retains close contacts with universities, legal institutions (for example: Institution of legal sciences in Bulgaria) and its members are often invited to participate in conferences, seminars, lectures and so on.

Legal advisers from the International Law Directorate give lectures in the Diplomatic Academy to the Ministry of Foreign Affairs.

8. Brief bibliography on the International Law Directorate

No bibliography of the International Law Directorate is currently available.

CROATIA

1. Title, rank and position of the Legal Adviser

The Head of the International Law Department - ILD - gives legal opinions and advises in relation to all acts of the Republic of Croatia in international relations from the point of view of international law. The competences of the ILD are governed by the Regulations on Internal Organisation of the Foreign Service (Official Gazette No. 38/04). The ILD is part of the diplomatic service. Its Head is a high-ranking professional diplomat, a lawyer specialised in international law with diplomatic training.

2. What are the principal functions of the OLA?

The ILD is competent for all affairs in connection with the follow-up, monitoring and analysing general and particular issues of international public and private law. Its functions are to provide legal advice and opinions on all matters arising from international law, especially the law of the sea, the law of international organisations, the status of international organisations and their offices, the law of the European Union, international diplomatic and consular law, international humanitarian law, international environmental law, international commercial law, international transport law, international criminal law. The ILD also deals with issues in relation to the national borders and border regime. It acts in conjunction with the Government and public bodies in respect of all issues within its competence and deals with other tasks as assigned by the minister or the head. The ILD has a very important function in the process of concluding the international treaties on behalf of the Republic of Croatia – by issuing its opinion on a draft treaty from the point of view of international law. A legal adviser from the ILD is a regular member of the Croatian delegation negotiating the treaty. In the process of ratification, the ILD is competent to initiate the procedure before the Government. The Treaty Collection of the Republic of Croatia, covering all treaty actions undertaken by the Republic of Croatia, is kept with the ILD. The ILD is also in charge of printing and other arrangements for treaty signing.

3. Please give a brief description of the staff employed by the OLA, including overseas staff

The ILD staff comprises 10 lawyers, including the Head. All of them are specialised or specialising in various fields of international law, by attending post-graduate studies and participating in various courses at international institutions dealing with public and private international law. Except for a few junior colleagues most of the staff, including the Head, have been with the Ministry and in the ILD for more than ten years, i.e., from the early days of the constitution of Croatia as an independent State.

A number of ILD staff is posted overseas, in particular with the Permanent Croatian Missions to the UN in New York and Geneva, the Croatian Mission to the EC in Brussels and the Croatian Embassy in the Hague.

Apart from the lawyers, four administrators at the ILD are engaged in making arrangements for the signing of treaties as well as other jobs in connection with the Treaty Collection and the ILD's Reference Library. Four diplomats with diverse professional background work in the ILD section for border issues.

4. Briefly describe organisation and structure of the OLA

The International Law Department is divided into the following Sections:
 Section for General and Particular Questions of International Law
 Treaty Section
 Section for Border Issues.

Each Section has a head, accountable to the ILD head for the organisation of the section and completing all the tasks.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The ILD is an independent department within the Ministry of Foreign Affairs, reporting directly to the Minister.

6. What are the main contacts of the OLA within the Government?

The ILD head, as well as the ILD as a whole, maintains regular working contacts with high-ranking Government and Parliament officials, as well as with other ministries, agencies and institutions, as required for the completion of the tasks. The ILD Head or other lawyer takes part, alone or in conjunction with high-ranking Ministry officials, in the work of Government bodies and in Parliament sessions when necessary.

7. Please describe the relation of the OLA with lawyers in private practice, academics and legal institutions

The ILD closely co-operates with the academics, especially professors of international law at the Faculty of Law, University of Zagreb. ILD staff are encouraged to participate in various seminars, courses and other gatherings dealing with international law issues, and they get invited to give lectures to undergraduate or graduate students on subjects they are specialised in. The ILD Head regularly lectures on international law issues at the Diplomatic School in the course of training for foreign assignment. Depending on the post the diplomat is preparing for, he/she will often hold consultations within the ILD about some particular international law issues. The ILD also provides assistance to private practice and legal institutions.

8. Please provide a brief bibliography on the OLA, if available

For the time being there is no bibliography which refers in particular to the role of the ILD.

DENMARK

1. Title, rank and position of the Legal Adviser

The Legal Adviser holds the rank of ambassador and the title of Head of Legal Service within the Ministry of Foreign Affairs.

The Head of Legal Service is a career diplomat. The Office of the Legal Adviser (OLA) comprises jurists belonging to the diplomatic staff of the Ministry of Foreign Affairs.

The Head of Legal Service reports to the State Secretary heading the North Group of the Ministry of Foreign Affairs.

2. Principal functions of the OLA

The OLA supports all other departments of the Ministry of Foreign Affairs, as well as other governmental bodies, in matters concerning international legal affairs and human rights issues. This includes providing legal and operational advice on issues of international law and Danish constitutional law related to international law as well as human rights issues.

The OLA in addition functions as an in-house legal counsel of the Ministry of Foreign Affairs concerning Danish legal issues. It provides legal and operational advice on issues of domestic law, arising in the course of the MFA's work. The OLA provides assistance and guidance for the other departments of the Ministry of Foreign Affairs concerning access to information. The OLA moreover coordinates comments by the MFA on draft legislation and interministerial hearings.

Furthermore, the OLA handles its own portfolio such as Law of the Sea, Treaty Law, Legal Aspects of International Terrorism and Humanitarian Law in Armed Conflicts. In this respect the OLA represents Denmark in international bodies such as the International Law Commission, the UN Human Rights Commission and the Sixth Committee.

The Head of Legal Service represents Denmark in various international fora on issues falling within the competences of the OLA.

The OLA acts as Agent for the Danish Government before international tribunals and other international dispute settlement bodies (e.g. the International Court of Justice, Treaty Bodies under the International Human Rights Conventions, the European Court of Justice and the European Court of Human Rights).

3. Staff employed by the OLA

There are currently 33 staff members in the OLA, of whom 19 are lawyers from the diplomatic service, 4 are administrative specialists and 10 are administrative staff.

4. The organisation and structure of the OLA

The OLA consists of three main units, each headed by a Head of Department or a Chief Adviser, who report to the Head of Legal Service:

- 1) International Law Department
- 2) EU Law Department
- 3) Human Rights Unit

5. The OLA's place within the Ministry

The OLA is placed as a functional service assisting the whole of the Ministry of Foreign Affairs. In organisational terms the OLA is placed under the State Secretary heading the North Group.

6. The main contacts of the OLA with the Government

The OLA provides advice to the Government on international law issues. As mentioned above the OLA is also the representative of the Government before international legal bodies.

7. The relations of the OLA with private lawyers, academics and legal institutions

The OLA participates actively in the legal debate both on a national and international level. A number of members of the OLA teach at universities and they participate in seminars and conferences. Members of the OLA contribute to national and international law journals. The OLA also chairs a contact group of representatives from Danish civil society, which meets at regular intervals to discuss human rights issues.

ESTONIA

1. What are the title, rank and position of the Legal Adviser?

The Deputy Under-Secretary for Legal and Consular Affairs is fulfilling the functions of the Legal Adviser in the Ministry of Foreign Affairs (MFA). The Deputy Under-Secretary is supervising two departments – legal and consular and substitutes the Permanent Under-Secretary if needed.

2. What are the principal functions of the OLA?

The principal function of the OLA, which is fulfilled by the Legal Department, is to give legal advice to the officials of the Ministry. The scope of advice given is wide: on public and private international law, human rights law, European Union law as well as domestic law (contracts, public procurement, public service, etc). The Legal Department also gives legal advice on international, European and foreign law to other ministries and departments. It participates in the legal drafting of primary and secondary legislations when issues concern the MFA's competence. The diplomats in the Legal Department represent Estonia as agents before international courts (e.g. European Court of Human Rights and European Court of Justice), in negotiations of international agreements, conferences, etc.

3. Please give a brief description of staff employed by the OLA, including overseas staff

There are 19 diplomats in the Legal Department in Tallinn, all having a law degree and many also an advanced degree in international or European law. There is one legal adviser in the Estonian Permanent Representation to the EU. There are currently no legal advisers in the Estonian Mission to the UN or in the embassies.

4. Briefly describe the organisation and structure of the OLA

The Legal Department is divided into four divisions: Public international law and legal drafting, International agreements, Human rights and European Union law divisions. Each division has 4-5 lawyers (who also belong to the diplomatic service) and 1-2 technical officials. Each division has its head and the department is run by the Director-General. There is a degree of specialisation between the lawyers (e.g. in the International agreements division, lawyers allocate agreements they work on according to topics), the Agents for the Government before the ECHR and ECJ in the Human rights division and EU law division naturally concentrate on the cases against Estonia.

5. What is the OLA's place within the Ministry of Foreign Affairs?

Legal Department is a unit within the MFA, headed by the Director-General and supervised by the Deputy Under-Secretary for Legal and Consular Affairs who reports directly to the Minister and the Permanent Under-Secretary. The four divisions in the Legal Department are run by the divisions' heads. As been said, the lawyers in the Legal Department are in the diplomatic service and can rotate to other departments and embassies.

6. What are the main contacts of the OLA within Government?

As been said in the answer to question 2, the lawyers in the Legal Department take part in drafting the legislation, *inter alia* making sure that the drafts are compatible with Estonia's international obligations. The lawyers are members of inter-governmental commissions and delegations for the negotiations of international treaties and frequently give advice on points of international and European Union law. All the treaties are submitted to the Government for approval by the MFA. The MFA lawyers prepare in close co-operation for the proceedings before international courts with officials of other ministries. The Human rights division compiles Estonian reports to human rights treaties from various contributions from line ministries and departments.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The MFA is sometimes represented by private attorneys in domestic litigations against the Ministry. There are also active contacts with academic institutions - lawyers from the Legal Department give frequently lectures in universities either on permanent or ad hoc basis and many of them are members of the International Law Association. They are also encouraged to make contributions to international and domestic legal publications.

FINLAND

1. Title of Legal Adviser and the Legal Office

The function of the Legal Adviser is executed by the Director General for Legal Affairs, head of the Legal Department of the Ministry for Foreign Affairs (henceforth MFA). Acting as the Legal Adviser, the Director General is assisted by one of the two Deputy Director Generals and, in particular, the Unit for Public International Law. Furthermore, the Legal Adviser can draw special expertise from the Unit for Treaty Law, the Unit for EU Law, and the Unit for Human Rights Courts and Conventions (see point 4 below).

The Legal Department is one of the twelve departments of the Ministry for Foreign Affairs. It has a mixed staff, with both diplomatic personnel (some of the legal advisers and most of the supporting staff being part of the General Foreign Affairs Diplomatic Service career) and expert personnel (most of the legal advisers being so called special legal experts). Unlike the diplomatic staff, the special legal experts stay at the specific expert position in the Legal Department for which they have been appointed.

2. Principal functions of the Legal Department

The principal functions of the Legal Department can be divided into two subcategories: advisory functions and operational functions. As far as the advisory functions are concerned, the Legal Department provides advice in public international law, including human rights law, treaty law and EU law, primarily to the Ministry for Foreign Affairs and secondarily to the Government as a whole. The operational functions include representation of the Government in various international fora, such as the UN, the EU and the Council of Europe regarding matters which fall under the competence of the Legal Department, representation of the Government before international judicial and investigative bodies (including the European Court of Justice, the European Court of Human Rights, and the International Court of Justice), and preparation of national legislation. A further category of operational tasks consists of consular issues, in which connection questions of private international law, especially concerning family law (child abductions etc) often arise, as well as issues relating to passports, visas, and residence and work permits and the organisation of national elections abroad.

3. Number of lawyers including those working abroad in embassies

There are currently approximately 85 staff members working in the Legal Department in Helsinki, of whom 11 are diplomats, 23 special legal experts and the rest administrative staff. There are also legal advisers in the Finnish Permanent Mission to the UN in New York and in the Finnish Permanent Representation to the EU in Brussels.

4. Organisation of the Legal Department

The Legal Department is organised in seven different units, and it is headed by a Director General who is assisted by a First Deputy Director General and a Second Deputy Director General. The Units are:

- 1) Unit for EU Law
- 2) Unit for EU Litigation
- 3) Unit for Public International Law
- 4) Unit for Treaty Law
- 5) Unit for Human Rights Courts and Conventions
- 6) Unit for Consular Services
- 7) Passport and Visa Unit.

As mentioned in Section 2, some of the legal advisers who work permanently for the MFA are part of the Diplomatic service and some are non-diplomatic special legal advisers. In addition to

permanent staff, the MFA occasionally hires non-permanent staff to cater for temporary human resource needs.

5. Place within the Ministry for Foreign Affairs

The Ministry for Foreign Affairs is organised in functional and geographical departments, of which the Legal Department belongs to the former category. Examples of other functional departments include the Political Department and the Department for Development Policy.

6. Main Contacts with the Government

The Legal Department provides advice specifically to the Ministry for Foreign Affairs and to the foreign relations committee of the Government. The principal legal adviser for the Government is the Ministry of Justice, and the legal supervisor of the Government is the Chancellor of Justice. However, as far as public international law is concerned, the Legal Department is the only expert body to provide advice to the Government as a whole. As mentioned in Section 2, the Legal Adviser acts as the agent of the Government before the ICJ, the ECJ, and the ECHR. The Legal Adviser is a member of the Panel of Lawyers in the Permanent Court of Arbitration in The Hague.

7. Relations with lawyers in private practice, academics and legal institutions

The Legal Department is an active participant in public debates, academic conferences and seminars. From time to time, the Legal Department organises conferences and seminars on topical issues of international law open to academics, practitioners and students of law and journalists. Legal advisers are encouraged to participate in both national and international conferences, as well as to engage in debates and discussions on contemporary topics related to their field of expertise. The Director General for Legal Affairs chairs the National Committee on IHL.

FRANCE

1. Quels sont les titre, rang et position du Conseiller juridique?

Le conseiller juridique est directeur de la direction des affaires juridiques et jurisconsulte du ministère.

La direction des affaires juridiques est placée sous l'autorité du Secrétaire Général du Ministère des affaires étrangères.

2. Quelles sont les principales fonctions du BCJ?

Décret no 98-1124 du 10 décembre 1998 portant organisation de l'administration centrale du ministère des affaires étrangères - JORF n° 289 du 13 décembre 1998 page 18766

Art. 11. - La direction des affaires juridiques, placée sous l'autorité d'un directeur, jurisconsulte du ministère, conseille le ministre, les directions et services de l'administration centrale, les missions diplomatiques et les postes consulaires sur les questions juridiques liées à leurs activités. Elle répond aux demandes de consultation sur des points de droit international qui peuvent lui être adressées par d'autres ministères.

Elle représente l'État devant les instances internationales à caractère arbitral ou juridictionnel, notamment devant le tribunal de première instance, la Cour de justice des Communautés européennes et la Cour européenne des droits de l'homme.

Elle est consultée sur tout projet de traité ou d'accord international et associée en tant que de besoin à la négociation de ces instruments.

Elle est responsable de toute question relative au droit de la mer et au statut de l'Antarctique

3. Description du personnel employé

50 agents dont 30 ont vocation à plaider en tant qu'agents du gouvernement devant les quatre juridictions internationales (Cour européenne des droits de l'homme, Cour de justice des Communautés européennes, Cour internationale de Justice, Tribunal international pour le droit de la mer), 7 secrétaires, 4 agents d'archives, 1 bibliothécaire juridique.

Il existe trois conseillers juridiques à l'étranger mais ils ne dépendent pas de la direction des affaires juridiques bien que travaillant en étroite relation avec elle :

- un conseiller juridique à la mission permanente auprès de l'Organisation des Nations-Unies à New York ;
- un conseiller juridique à l'ambassade de France à La Haye ;
- un conseiller juridique à la représentation permanente auprès de l'Union européenne à Bruxelles.

4. Organisation et structure

Arrêté du 10 décembre 1998 relatif à l'organisation de l'administration centrale du ministère des affaires étrangères (J.O.R.F n° 289 du 13 décembre 1998 page 18768)

Art. 12. - La direction des affaires juridiques comprend :

- la sous-direction du droit international public général ;
- la sous-direction du droit international économique et du droit communautaire ;
- la sous-direction des droits de l'homme ;
- la sous-direction du droit de la mer, des pêches et de l'Antarctique ;
- la sous-direction des accords et traités.

Art. 23. - Les missions des sous-directions de la direction des affaires juridiques sont les suivantes :

La sous-direction du droit international public connaît de toute question juridique relative au droit international public et aux organisations internationales.

La sous-direction du droit international économique et du droit communautaire traite, en liaison avec le secrétariat général du comité interministériel pour les questions de coopération économique européenne, de toute question de droit communautaire et assure la gestion des contentieux devant le tribunal de première instance et la Cour de justice des Communautés européennes. Elle traite de toute question de droit international économique.

La sous-direction des droits de l'homme connaît de toute question juridique relative aux droits de l'homme, aux réfugiés, à la circulation des personnes et au statut des étrangers en France. Elle assure la gestion des contentieux devant la [...] Cour européenne des droits de l'homme.

La sous-direction du droit de la mer, des pêches et de l'Antarctique connaît de toute question internationale relative à la mer, aux pêches et aux fonds marins. Elle est également compétente à l'égard de toute question relative à l'Antarctique.

La sous-direction des accords et traités conduit les procédures d'introduction des traités et accords internationaux dans l'ordre juridique interne.

5. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères

Voir l'article 11 du décret no 98-1124 du 10 décembre 1998 portant organisation de l'administration centrale du ministère des affaires étrangères, cité ci-dessus en regard de la question 2.

6. Principaux contacts du BCJ au sein du Gouvernement.

- Secrétariat général du Gouvernement.
- Secrétariat général du comité interministériel pour les questions de coopération économique européenne.
- L'ensemble des ministères et, notamment, les ministères de la justice, de la défense, de l'économie et des finances.

7. Relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques

Dans sa mission d'agent du gouvernement et de gestion des contentieux devant les juridictions internationales, la direction des affaires juridiques fait rarement appel à des contributions extérieures. Toutefois, elle sollicite, en cas de nécessité, le concours de conseils appartenant, le plus souvent, à la communauté académique.

Il existe, par ailleurs, une relation d'échanges et de discussions entre la direction des affaires juridiques et des institutions juridiques extérieures, les centres de recherches universitaires notamment. Ainsi, les agents de la direction participent régulièrement aux conférences et publications de ces centres, qui sont associés aux réflexions de la direction des affaires juridiques sur des thèmes d'intérêt commun.

8. Veuillez fournir une brève bibliographie au sujet de la DJ, le cas échéant

Jean-Pierre Puissochet. – « La fonction juridique au Ministère des Affaires étrangères », *Cahiers de la Fonction Publique et de l'Administration*, novembre 1993, n°118. p. 12-13.

Gilbert Guillaume. – « Droit international et action diplomatique : le cas de la France », *European Journal of International Law*, 1991, vol. 2-1, p. 136-147.

Gilbert Guillaume. – « La direction des affaires juridiques du ministère des affaires étrangères : conseil juridique et action diplomatique », *Mélanges de Lacharrière «Guy Ladreit de Lacharrière et la politique extérieure de la France»* – Masson, 1989. – p. 267-278.

André Gros. – « Origines et traditions de la fonction de jurisconsulte du département des affaires étrangères », *Mélanges offerts au doyen Trotabas*. – LGDJ, 1970. – p.187-195.

Jean-Luc Sauron. – *L'application du droit de l'Union européenne en France*. – La documentation française, 2000. – (2^{ème} éd.). – p. 110-126.

GERMANY

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the position of a director-general. The position is assigned to regular career diplomats, and is subject to the principle of rotation. There is no recruitment from outside the Foreign Service.

2. What are the principal functions of the OLA?

The Legal Adviser heads the Legal Directorate-General. He provides guidance on issues of public international law. In addition to those functions traditionally associated with the position of "Legal Adviser", he or she is responsible for consular affairs as well as issues of constitutional and administrative law. The Legal Adviser presents the Federal Government's position on issues of public international law in Parliament and, on request, before the Federal Constitutional Court. Additionally, the Legal Adviser represents German interests at international conferences and in international organizations. He or she is the agent of Germany in proceedings before the ICJ (Proceedings before the ECJ and the ECHR fall within the responsibility of the Ministry of Finance and the Ministry of Justice, respectively).

3. Please give a brief description of staff employed by the OLA, including overseas staff

Currently, there are about 40 career diplomats working at the Legal Directorate-General at the headquarters in Berlin. While it is in principle not necessary that they are qualified to practice law in Germany, most of the members of the Legal Directorate-General are qualified lawyers under German law.

There are legal advisers at the German Mission to the UN in New York and at the German Embassy in The Hague. In addition, most Embassies and all Consulates deal with consular and other legal affairs on a daily basis.

4. Briefly describe the organisation and structure of the OLA

The Legal Adviser is head of the Legal Directorate-General. The Directorate-General currently comprises two task forces - Task Force for the ICC/Commissioner for the ICC and Task Force for the Parliamentary Commission of Enquiry on Visa – and twelve divisions with the following responsibilities:

- General International Law, Legal issues ensuing from the German reunification
- International Treaties
- Law of Diplomatic and Consular Relations and of relations with International Organizations
- Legal Status of Foreign Forces, Legal Status of the Federal Armed Forces and Police on Missions abroad, Property issues ensuing from the two World Wars and National Socialist Injustice
- Antarctic and special Areas of International Law (Law of the Sea, Law of the Aerospace, Law of International Environmental Protection, Law on International Watercourses)
- Constitutional and Administrative Law
- Criminal Law, International Tax and Customs Law
- Private International Law, Civil Law, Mercantile and Commercial Law
- Foreigners Law incl. Asylum Law, Visa Law, Policy on Foreigners
- Visa Law: Specific Cases and Proceedings in Contentious Administrative Matters relating to Visa
- Labour, Social and Health Law, Borders of the Federal Republic of Germany, Agreements for the Protection of Classified Material

- Emergency Assistance for Germans Abroad – Financial Assistance in Emergency Situations, Evacuation, Missing Persons Searches, Assistance with the Repatriation of Deceased Persons, Aid Institutions and Social Welfare of Germans Abroad

5. What is the OLA's place within the Ministry of Foreign Affairs?

In total, there are eleven Directorates-General within the Federal Foreign Office. The Legal Directorate-General acts under the supervision of one of the two Secretaries of State.

6. What are the main contacts of the OLA within Government?

The Legal Adviser provides legal advice on questions of public international law within the Foreign Office as well as to other bodies and institutions.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The Legal Adviser and other senior members of the Legal Directorate-General participate in scientific conferences and meetings. They are in regular contact with German and international research institutes. Depending on the subject matters, contacts to research institutes, scholars or private law firms may be established. An Advisory Committee on Public International Law comprising prominent German scholars of international law meets regularly with the Legal Adviser to discuss current issues of public international law.

8. Please provide a brief bibliography on the OLA, if available

Albrecht Lohmann; *Das Auswärtige Amt*; 2. Ed. 1974

Gerd Westdickenberg; *Deutschland klagt vor dem Internationalen Gerichtshof*, in: Enrico Brandt/Christian Buck; *Auswärtiges Amt, Diplomatie als Beruf*; 3. Ed. 2003

GREECE

1. What is the title, rank and position of the Legal Adviser?

The Legal Department of the Ministry of Foreign Affairs was created in the 1920s. It consists of two sections: the section of Public International Law and the section of European Law. Each one has its own head who is a senior Legal Adviser. Both are directed by the 'Special Legal Adviser'. The Legal Department reports directly to the Ministers of Foreign Affairs. A Bureau for International Treaties is located within the premises of the Section of Public International Law.

2. What are the principal functions of the OLA?

The principal functions of the Legal Department is to provide legal advice to the Ministers and the Political and other Departments of the Ministry of Foreign Affairs. This involves advice on questions of Public International Law and European Law. Legal Advisers act as Agents for the Government before international Tribunals including the International Court of Justice and the European Court of Justice. They also attend international conferences and meetings as head or members of the Greek delegation thereto.

3. Please give a brief description of staff employed by the OLA, including overseas staff

There are around thirty lawyers in both sections, eleven of which in the section of Public International Law. A limited number of legal advisers may be posted abroad, especially in Brussels.

4. Briefly describe the organisation and structure of the OLA

Within each section Legal Advisers may be asked to respond to any request concerning issues involving International Law. However in practice each Legal Adviser specializes on certain issues (such as Human Rights, the Law of the Sea, Diplomatic Immunities etc).

There are four ranks within Legal Advisers in descending order: the Special Legal Adviser, Legal Advisers, Deputy Legal Advisers, and Assistant Legal Advisers ('Rapporteurs').

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Department is an independent Department within the Ministry of Foreign Affairs (see also reply to question no 1).

6. What are the main contacts of the OLA within Government?

The Legal Department offer advice on international law issues within the Government and are consulted by other Ministries on such issues. They cooperate with the Government Legal Service (the 'State Legal Council') who deal with questions of domestic law and represent the country before the European Court of Human Rights. The Legal Department also retains close links with the Scientific Council operating in the Ministry which consists of academics and other experts who may be asked to provide legal opinions on matters of interest to the Ministry.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The Legal Department retains close contacts also with universities and other legal institutions and its members are often invited to participate in various events such as conferences, seminars, meeting, lectures etc. They may also organize such events at their own or the Ministry's initiative. Members of the Legal Department are also encouraged to write articles or books on issues of International Law.

ICELAND

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of Director General within the Ministry for Foreign Affairs of Iceland. The Legal Adviser heads the Office of the Legal Adviser, a separate department of the Ministry.

The Legal Adviser is traditionally a career diplomat as most other officials of the Ministry for Foreign Affairs.

2. What are the principal functions of the OLA?

The Office of the Legal Adviser is responsible for all matters of public international law. However, special emphasis is put on negotiation, finalization, signing, ratification and publication of treaties on the one hand and on law of the sea issues on the other hand.

The Office of the Legal Adviser provides legal advice to other departments of the Ministry and to other ministries and governmental bodies. The Office regularly introduces relevant treaties and other emerging issues of public international law to the Foreign Relations Committee of the Althing, the Parliament.

Although much of the work is advisory, the Office of the Legal Adviser is also engaged in operational functions. The Legal Adviser frequently represents the Government in various international fora, such as the United Nations, regarding matters which fall within the competence of the Office.

3. Please give a brief description of staff employed by the OLA, including overseas staff

The Office of the Legal Adviser consists of the Legal Adviser, a Deputy Legal Adviser or a Legal Officer, as appropriate, who is typically a career diplomat, and a Translator. The Office furthermore enjoys the services of the Ministry's Translation Centre.

There are no designated legal advisers working at diplomatic missions abroad belonging to the Office of the Legal Adviser. However, the Permanent Missions of Iceland in New York and Geneva traditionally have some lawyers among their diplomats.

4. Briefly describe the organisation and structure of the OLA

The Legal Adviser reports directly to the Permanent Secretary of State. The Office of the Legal Adviser is not divided into any sections.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Office of the Legal Adviser is one of twelve departments of the Ministry for Foreign Affairs.

6. What are the main contacts of the OLA within Government?

The Office of the Legal Adviser of the Ministry for Foreign Affairs deals on a daily basis with other ministries and governmental bodies. This includes consultations on internal legal procedures in relation to ratification of treaties.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The Office of the Legal Adviser is in frequent contact with lawyers in private practice, academics and legal institutions on matters of public international law. The current Legal Adviser teaches courses on the law of the sea at the University of Iceland and gives lectures within that field at Reykjavik University. He is furthermore the Director of the Law of the Sea Institute of Iceland which is an academic institute at the University of Iceland.

IRELAND

1. Title, rank and position of the Legal Adviser

The Legal Division of the Irish Department of Foreign Affairs is headed by the Legal Adviser to the Minister for Foreign Affairs. The Legal Adviser holds the rank of Assistant Secretary.

2. Principal functions

The principal functions of the Legal Division are as follows: to provide advice and legal information, particularly on matters of public international law, human rights law and EU law, to the Minister for Foreign Affairs; to represent Ireland in international legal proceedings (including the European Court of Human Rights and the International Court of Justice) and in international fora (such as the Sixth Committee of the UN General Assembly, the Assembly of States Parties of the ICC, the bodies established under the UN Convention of the Law of the Sea and relevant Council of Europe and EU bodies); and to represent Ireland in negotiations concerned with international legal matters. The Legal Division also runs the Department's Treaty Office.

Among the key objectives of the Legal Division are to ensure an appropriate legal input into the formulation and implementation of Ireland's foreign policy and to contribute to effective Irish participation in international legal fora.

3. Number of lawyers including overseas staff

There are currently eight legal experts based in the Dublin office who travel overseas whenever required.

Additionally, an officer based in the Permanent Representation of Ireland to the United Nations in New York works on legal issues on a part-time basis.

4. Organisation of the Legal Office

There are three legal grades within the Legal Division: Legal Adviser (one), Deputy Adviser and Legal Counsellor (two) and Assistant Legal Adviser (five). In addition, there are two Legal Trainees, a Treaty Officer, an Office Manager and three administrative staff. The legal experts are assigned to advise on specific areas which form the principal area of their work, although this is a flexible delegation of responsibility.

5. Place within the Department of Foreign Affairs

The Legal Division is one of twelve Divisions or Units in the Department of Foreign Affairs, others of which include the Protocol Division, the Political Division, the Bilateral Economic Relations Division, the Anglo-Irish Division and the EU Division. The Legal Division forms an integral part of the Department, and is in constant contact with the other Divisions and Units and with diplomatic missions abroad. There is a separate recruitment system for lawyers entering the Division. However, occasionally an appropriately qualified diplomat may serve in the Legal Division and legal officers may serve abroad as part of the diplomatic corps. Legal officers have diplomatic status.

In order to assist in the co-ordination of Departmental activities and policy the Legal Adviser meets regularly with the Minister for Foreign Affairs, the Department's Junior Ministers and with the Secretary General of the Department, both bilaterally and as part of the Department's Management Advisory Committee.

6. Main contacts with Government

In addition to providing legal advice within the Department of Foreign Affairs at home and abroad, the Legal Division is frequently consulted by other Government departments and law offices regarding legal issues in which it has particular expertise. The Legal Division acts as the agent of the Government before the ICJ, the European Court of Human Rights and other international dispute settlement and treaty monitoring mechanisms.

7. Relations with lawyers in private practice, academics and legal institutions

Lawyers from private practice may be retained by the Government as necessary in the preparation and presentation of written and oral presentations to the European Court of Human Rights and similar bodies and in such cases will work closely with members of the Legal Division. Lawyers from the Legal Division maintain ongoing contact with lawyers in private practice and in academia through their participation in professional bodies, attendance at conferences and seminars and through informal contacts. A number of the Legal Division's staff are involved in the teaching of international law in third level institutions in Ireland and write in academic journals.

ITALY

In order to perform its institutional activities, the Department for Treaties and Legal Affairs of the Italian Ministry of Foreign Affairs avails itself of its own personnel and the collaboration of experts in juridical matters. Generally, these are Magistrates, University Professors, and Lawyers who collaborate in particular sectors needing a higher specialization.

In some Italian Diplomatic Representations abroad (e.g.: New York, Brussels, Vienna) there are in service juridical experts who assist the Head of the Mission in matters related to International Law, or matters having a legal nature both domestic and international.

The Department for Treaties and Legal Affairs is articulated in three Offices, having the following functions:

ACTIVITY AND COMPETENCE OF OFFICE I (Bilateral affairs)

- juridical assistance in negotiations towards the conclusion of bilateral agreements;
- the carrying out of activities for the concession of full powers granted by the Minister of Foreign Affairs, the signature, the coming into force, and the publication of bilateral agreements;
- the application, modification, and effectiveness cessation of bilateral agreements;
- the diplomatic resolution of litigations issued from the application and the interpretation of bilateral agreements;
- advising in juridical and bilateral matters;
- the deposit and conservation of original documentation concerning bilateral agreements in which Italy is a contracting part;

ACTIVITY AND COMPETENCE OF OFFICE II (Multilateral Affairs)

- juridical assistance in negotiations aimed at the conclusion of multilateral agreements, including antecedent procedures (revision of texts, with related opinions to the negotiating Offices, release of full powers) and following the signature (ratification procedures, implementation of the necessary formalities for the coming into force of the international instruments).
- juridical assistance in negotiations aimed at the conclusions of agreements between Italy and international organizations present in our Country.
- release of credentials, signed by the Minister of Foreign Affairs, for Delegations representing Italy in international conferences, as well as conferring full powers to the Heads of Delegations for the subscription of final documents.
- implementation of formalities for the reception and the conservation of original documents related to International Treaties of which the Italian Government is depositary, as well as copies of Multilateral Treaties of which Italy is part;
- questions pertaining to human rights;
- juridical advising for multilateral questions and for those pertaining to International Organizations;
- preparation of documentation related to the COJUR and COMAR groups of the European Union, to the CAHDI Committee and the European Council, to the Sixth Commission of the United Nations, as well as assisting the Head of the Department for Treaties and Legal Affairs in reunions in which he participates representing Italy;
- the presentation and support of Italian candidatures within international organizations having juridical nature or jurisdictional competence;
- predisposing delegations of Italian experts in meetings of various sectors, especially UNCITRAL, UNIDROIT and the Conference of Private International Law;
- management of thematic related to the International Criminal Court;
- management of litigation related to NATO and USA bases in Italy;
- management of charters of Italian military contingents abroad.

ACTIVITY AND COMPETENCE OF OFFICE III (Italian Government Agent before International Courts)

- representing Italy in judgements before International Courts;
- preliminary investigation necessary for the preparation of cases, in accordance with the Department for European Integration in cases taking place before the Court of First Instance or the Court of Justice of the European Community;
- finding the experts;
- coordination with other Administrations in defending the State in judgement procedures;
- monitoring activities in most delicate cases or having a political relevance before the European Court of Human Rights, the International Court of Justice and other international jurisdictions, aiming at protecting Italian rights and interests, promoting interventions, meetings, and missions of national experts;
- activities connected to the development of international arbitrates.

The Department is, at the moment, directed by a State Lawyer, availing himself of the collaboration of a Diplomat as a Vice Head of the Department.

The Offices are directed by Diplomats, who use the collaboration of part-time Jurists (4/5 elements in total).

For some matters having a specialist's content (e.g.: Law of the Sea, International Courts, NATO, etc.) the Department utilizes advisors *ad hoc*.

LATVIA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of Counsellor within the Ministry of Foreign Affairs of the Republic of Latvia. The Legal Adviser administers the Legal Department, which is a separate department under the Administrative Legal Affairs Directorate.

The Counsellor is traditionally a career diplomat as most officials of the Ministry of Foreign Affairs of the Republic of Latvia.

2. What are the principal functions of the Office of the Legal Adviser?

The Office of the Legal Adviser (Legal Department) consists of four divisions dealing with International Agreements, International Law, Administrative and Legal Affairs and European Union Legislation.

The International Agreements Division adjudicates upon all bilateral agreements, maintains a database of those agreements, and gives legal advice on such agreements.

The International Law Division maintains communication with international organisations, embassies and missions of foreign states to the Republic of Latvia, deals with multilateral agreements, accession to such agreements, gives legal advice on International Law matters.

The Administrative and Legal Affairs Division is composed of experts in national law dealing with issues of Latvian national law, including drafting contracts relating to functions and maintenance of the everyday work of the Ministry of Foreign Affairs and the missions abroad, carrying out analysis and providing legal advice with regard to such contracts and related matters to other divisions of the Ministry.

The European Union Legislation Division is engaged in European Union matters of legal nature by providing legal advice in European law matters, adopting and implementing European Union legal acts in the field of foreign affairs as well as adjudicating upon draft legislation from the standpoint of European Union law.

3. Please give a brief description of staff employed by the Office of the Legal Adviser, including overseas staff

The staff employed by the Office of Legal Adviser consists of the Counsellor, heads of the four divisions and legal officers working within the divisions. The staff mainly consists of career diplomats having obtained higher legal education.

There are no designated legal advisers working at diplomatic missions abroad belonging to the Office of the Legal Adviser.

4. Briefly describe the organisation and structure of the Office of Legal Adviser

The Legal Adviser reports to the Under-Secretary of State and the State Secretary. The heads of the four divisions within the Legal Department are subjected to the Legal Adviser. The legal officers working within divisions are subordinated to the heads of the divisions.

5. What is the Office of Legal adviser's place within the Ministry of Foreign Affairs?

Besides specialised divisions, the Ministry of Foreign Affairs of the Republic of Latvia consists of six main Directorates that are all subordinated to the State Secretary. The Legal Adviser's Office is one of five Departments within the Judicial and Consular Directorate administered by the Under Secretary of State.

6. What are the main contacts of the Office of Legal Adviser within Government?

The Office of the Legal Adviser of the Ministry of Foreign Affairs deals with other ministries and governmental bodies on a daily basis on legal matters concerning foreign affairs.

7. Please describe the relations of the Office of the Legal Adviser with lawyers in private practice, academics and legal institutions

The Office of the Legal Adviser is in frequent contact with lawyers, both in private practice and public administration, legal institutions working with matters of public international law as well as academics.

LITHUANIA

1. Title, rank and position of the Legal Adviser

The Legal Adviser is in the position of the Director of the Law and International Treaties Department of the Ministry of Foreign Affairs. This position is assigned to regular career diplomats and is a subject to the procedures of rotation.

2. Main functions of the Office of the Legal Adviser

The main function of the Law and International Treaties Department is to advise the Minister of Foreign Affairs as well as other departments and divisions of the Ministry Foreign Affairs on matters of public international law. Within its competence, the Law Department may also give advice to the other ministries and governmental agencies. It is involved in the drafting and negotiations of international treaties and drafting of domestic legislation related to the matters of international public law. The Law and International Treaties Department also performs the function of the registrar of the international treaties to which the Republic of Lithuania is a State Party.

3. Staff of the Office of the Legal Adviser, including overseas staff

Currently, there are fourteen diplomats and two civil servants working at the Law and International Treaties Department. There is no formally separate lawyers assignment procedure abroad. Nevertheless, according to existing practices diplomats with qualification of law are posted, *inter alia*, to the Lithuanian Permanent Mission to the UN, Lithuanian Permanent Representation to the Council of Europe and the Lithuanian Permanent Representation to the EU.

4. Organization and structure of the Office of the Legal Adviser

The Law and International Treaties Department headed by Director consists of three divisions:

- (i) International Treaties Division (matters related to drafting, negotiations and accession to international treaties);
- (ii) International Treaties Registration Division (administration of data base of international treaties to which Lithuania is a State Party, communications with depositaries, etc.);
- (iii) Law Division (drafting and expertise of domestic regulations, related to the international law and foreign policy issues, matters related to the functioning of the Lithuanian Diplomatic Service).

5. Position of the Office of Legal Adviser within the Ministry of Foreign Affairs

Law and International Treaties Department is one of the fourteen departments of the Ministry of Foreign Affairs. Its activities are supervised by one of three Undersecretaries of the Ministry. In terms of subordination all departments of the Ministry of Foreign Affairs comprise a "horizontal" line of structural elements. Nevertheless it is to be mentioned that any document of legal nature, prepared by any of departments or divisions of the Ministry, is a subject for approval by the Law and International Treaties Department.

6. Main contacts of the Office of Legal Adviser within Government

Main contacts of the Law and International Treaties Department within the Government are with legal and international relations departments and divisions of the Chancellery of the Government, Ministry of Justice, Ministry of the Interior, Ministry of Economy, Ministry of National Defense, Ministry of Finance and Ministry of Transport.

7. Relations of the Office of the Legal Adviser with lawyers in private practice, academics and legal institutions

A number of lawyers from the Law and International Treaties Department are involved in the teaching of international law at the Faculty of Law of the Vilnius University and Mykolas Romeris University, attend various seminars and conferences, hold informal contacts with lawyers of private practice.

8. Bibliography

No bibliography on the Law and International Treaties Department is currently available.

THE NETHERLANDS

1. What is the title, rank and position of the Legal Adviser?

In the Netherlands the function of Legal Adviser of the Ministry of Foreign Affairs is attached to the function of Head of the International Law Division in the Legal Affairs Department. In contacts within the Netherlands' administration the Legal Adviser is referred to as Head of the International Law Division. In contacts with the embassies and international legal institutions in The Hague and at international meetings he is referred to as "Legal Adviser".

2. What are the principal functions of the OLA?

The principal functions of the OLA are to advise the Minister of Foreign Affairs as well as policy departments within the Ministry on issues of public international law. Also the OLA may advise other ministries if complex issues of public international law exceed the specific expertise of lawyers in those ministries. The OLA acts as guardian of the consistency in the positions taken by the Netherlands' government on issues of public international law, *inter alia* in the process of the negotiation of treaties. The OLA participates in Netherlands' delegations to international conferences with a view to securing the correctness of Netherlands positions from the perspective of public international law. The OLA acts on behalf of the Kingdom of the Netherlands as agent in international judicial proceedings – such as the International Court of Justice and the European Court of Human Rights – or in international arbitral proceedings.

Representation of the Netherlands before the Court of Justice of the European Communities is not the responsibility of the OLA but of a sister division in the Legal Affairs Department, the European Law Division.

3. Please give a brief description of staff employed by the OLA, including overseas staff

The OLA comprises a head of division/ also Legal Adviser, a deputy head, ten staff members (senior legal counsels) and one secretary. Other administrative functions such as archivists and documentalists are shared by all divisions of the Legal Affairs Department (i.e. apart from the International Law Division and the already mentioned European Law Division there are also divisions for civil law, treaties, and administrative law).

4. Briefly describe the organisation and structure of the OLA

See the reply to question 3.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Affairs Department (including the OLA) is attached to the Office of the Secretary-General of the Ministry of Foreign Affairs.

6. What are the main contacts of the OLA within Government?

The main contacts of the OLA within the Government are with the (legal) departments of – in particular – the Ministries of Justice, Defence, Transport and Water Management, Environment and Finance.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

Main contacts with lawyers in private practice are those with the lawyers of the government attorney (the office of the government attorney is also a private law office); contacts with academics take place in particular in the framework of the contacts with an external advisory body,

the Advisory Committee on Issues of Public International Law, which to a large extent consists of academics; contacts with legal institutions are mainly with the T.M.C.Asser Institute (an inter-university institute for the promotion of the study of international law) and the Netherlands Association for International Law (a branch of the ILA).

8. Please provide a brief bibliography on the OLA, if available

A bibliography on the OLA is not available.

NORWAY

1. Title of the Legal Adviser and the Legal Office

The Legal Adviser holds the rank of Director General within the Ministry of Foreign Affairs (MFA). The Director General is head of the Department for Legal Affairs (DLA), and is assisted by a Deputy Director General.

The Director General is traditionally a career diplomat, as most high ranking officers of the DLA. The DLA comprises both lawyers belonging to the diplomatic staff of the MFA and particular legal experts, who work permanently within the DLA.

The Director General of the DLA reports to the Secretary-General of the MFA, but may provide direct advice to the political staff of the MFA and other Ministries.

2. Principal functions of the DLA

The DLA of the Norwegian MFA supports all other departments of the MFA, as well as other governmental bodies, in matters concerning international legal issues. This includes providing a unified legal service for the various departments with regard to interpretations and dispute settlement, as well as assisting policy makers in formulating and carrying out the foreign policies of Norway. Moreover, a particular field of work stems from also being in charge of consular affairs in the Norwegian Foreign Service. Other specific fields of work are related to the particular relationship agreements and cooperation between Norway and the EU, particularly through the European Economic Area Agreement. The DLA is furthermore in charge of legal issues related to the WTO, including dispute settlement.

Key priorities:

- Promoting compliance with international legal obligations and the strengthening and development as well as the effective implementation of the international legal order.
- Providing timely and operational advice on all legal issues, arising in the course of the MFA's work.
- Contribute to an effective formulation and implementation of Norwegian foreign policies, including international development policies.

Core functions of the DLA include:

- Providing legal and operational advice on issues of international law, Norwegian constitutional law related to international law, and consular matters.
- Providing legal and operational advice on issues of domestic law, arising in the course of the MFA's work. This includes *inter alia* preparing legal opinions and advice in constitutional and administrative law, including the Public Information Act, and commenting on new draft legislation or policy documents. The DLA moreover coordinates all comments by the MFA on draft legislation and interministerial hearings.

Supervising all functions related to Norway's treaty matters, including providing advice to other Ministries on drafting, analysis and negotiations. The DLA is responsible for finalizing the internal legal procedures of approval of all international treaties, as well as treaty registration and publication, including on the Internet.

- Representing Norway in various international fora on issues falling within the competence of the DLA, e.g. in bodies of the UN and the special agencies, various treaty bodies, EU/EEA

organs, the Council of Europe, NATO and other regional bodies or arrangements. Representatives of the DLA also negotiate agreements or assist at international conferences and meetings with the purpose of negotiating international conventions and other legal instruments.

- Negotiating or providing policy advice in various bilateral matters, including maritime delimitation.
- Formulating policies and ensuring operational follow-up in particular areas, including within the field of ocean affairs.
- Acting as agents on behalf of the Norwegian Government before international courts and dispute settlement mechanisms, including but not limited to the EFTA Court, the European Court of Justice, and the dispute settlement organs of the WTO. The DLA also assists the Attorney General for Civil Affairs in certain cases before the European Court of Human Rights.
- The Consular Section of the DLA is operationally responsible for supervising and promoting assistance to Norwegian citizens abroad in all kinds of consular matters.
- The DLA has the responsibility for budgetary and other administrative functions with regard to international courts and certain treaty bodies. The same applies with regard to supervision of geodetic and other work related to Norwegian borders or boundaries.

3. Brief description of staff employed by the DLA

Staff numbers include close to 30 lawyers and 10 administrative staff members in various functions, including consular assistance. The DLA staff thus comprises approx. a total of 40 members. Among the lawyers around 15 belong to the diplomatic staff of the MFA.

There are no designated legal advisers working at diplomatic missions abroad belonging to the DLA. However, larger representations and certain multilateral posts have traditionally some lawyers among their diplomats. Experience has shown the particular importance of legal experience at Norwegian missions to the UN and the WTO, both in New York and Geneva, and to the EU in Brussels, as well as at some larger embassies.

4. The organisation and structure of the DLA

The DLA consists of four main units, each headed by a Deputy Director General, who report to the head and deputy head of the DLA:

- Section for Treaty Law and Law of the Sea
- Section for International Humanitarian and Criminal Law
- Section for European/EEA, Trade and Environmental Law
- Section for Consular Affairs

The lawyers at the DLA are to an increasing degree specialized within various fields of law within their respective sections.

The four Sections have approx. 10 staff members each.

5. The DLA's place within the Ministry

The DLA is one of ten departments within the whole MFA, which in Norway is also the competent Ministry for international development issues.

6. The main contacts of the DLA with the Government

Particularly in matters relating to international law and European/EEA law, the DLA provides advice in the preparation of various Government documents. In so doing, extended contacts take place with the whole State administration.

The DLA is responsible for the preparation of treaties being concluded on behalf of the Government of Norway. The DLA is normally involved both in negotiating treaties and finalizing the internal legal procedures.

Representatives of the DLA may act as agents on behalf of the Government in international judicial procedures, often in cooperation with the Attorney General for Civil Affairs, who offers judicial advice and conducts civil cases on behalf of the Government particularly before domestic courts.

7. The relations of the DLA with private lawyers, academics and legal institutions

A professor of international law at the University of Oslo is attached to the DLA, and provides advice in the field of international law. Some of lawyers of the DLA teach at university, and also participate in debates and conferences on topics related to their field of expertise.

There is close cooperation with the Attorney General for civil affairs. Moreover, private lawyers may be engaged when necessary, for example in connection with law suits.

POLAND

1. Title, rank and position of the Legal Adviser

The post of the Legal Adviser is not envisaged in the structure of the Ministry of Foreign Affairs of the Republic of Poland. The function of the Legal Adviser performs the Director of the Legal and Treaty Department (LTD).

The Director of the LTD, who daily contacts with other heads of departments and offices of the Ministry, is subordinated to the Deputy Minister of Foreign Affairs, and/or in the specific cases reports directly to the Minister and/or to his Deputies.

2. Principal functions

The main tasks of the LTD include:

- providing legal advice and giving opinions on matters of international law relating to foreign policy;
- participating and supervising all phases of the conclusion of treaties; performing the functions of depositary of treaties; keeping the Poland's Treaty Archive;
- participating in the Polish delegations to international conferences and meetings with a view to securing the correctness of Poland's position from the perspective of public international law;
- following and evaluating issues of international law and participating in works on codification and development of this law; participating in such international legal fora as the COJUR of the European Union, the CAHDI of the Council of Europe and the Sixth Committee of the General Assembly of the United Nations;
- elaborating of positions of the Republic of Poland and participating in proceedings before international and domestic courts, arbitration tribunals, and in other proceedings connected with resolution of disputes, within the competence of the Minister of Foreign Affairs; acting on behalf of Poland as agent before the European Court of Human Rights;
- providing opinions on international law's issues connected with the membership of the Republic of Poland to the European Union;
- providing diplomatic missions, consular offices and international organizations in Poland with information on the Polish law.

3. Description of staff employed by the LTD, including overseas staff

There are currently about 30 lawyers, all of them graduated in international law, working in the LTD. They are supported by 10 secretarial and registry staff.

The LTD has no special legal postings abroad. However, traditionally there are posts in some missions and embassies (e.g. Permanent Missions to the UN in New York and Geneva, Permanent Representation to the EU in Brussels, Permanent Representation to the Council of Europe in Strasbourg, Embassy in The Hague) staffed by officials with suitable legal background, usually delegated from the LTD.

4. Organization and the structure of the LTD

The LTD consists of the following units:

Division I - International Law;
 Division II – Treaties;
 Division III – Treaty Procedures, including Treaty Archive;
 Division IV – Human Rights; and
 Section I – European Law and Law of International Economic Relations,
 Section II - Restitution of Cultural Goods, as well as

The Plenipotentiary of the Minister of Foreign Affairs for cases and procedures before the European Tribunal of Human Rights, and
The Plenipotentiary of the Minister of Foreign Affairs for the Restitution of Cultural Goods.

Both Plenipotentiaries are directly subordinated to the Director.

The Director heads the Department. Three Deputy Directors and Heads of the divisions and sections assist him.

5. The LTD place within the Ministry of Foreign Affairs

The LTD is one of the 13 departments of the MFA.

The tasks of the LTD are determined by the Statute of the MFA and are carrying out under the supervision of the Deputy Minister of Foreign Affairs.

In performing its tasks the LTD is also supervised by the Director-General of the Foreign Service on administrative, financial and personnel matters.

6. Main contacts of the LTD within the Government

In exercising its tasks the LTD contacts, in particular, relevant departments of other ministries and Government agencies, as well as parliamentary commissions, on issues related to international law and the conclusion and implementation of treaties.

7. Relations of the LTD with the lawyers in private practice, academics and legal institutions

The LTD actively interacts with lawyers in private practice, academics, legal institutions and specialized NGOs.

It may hire lawyers in private practice, when need arises, to act as counsel and advocate in proceedings before international and domestic courts and tribunals.

Contacts with academics take place, in particular, in the framework of the Consultative Legal Committee to the Minister of Foreign Affairs. The Committee includes the most eminent Polish legal scholars who analyse current legal problems of concern to the MFA. The Director of the LTD represents the Minister at the Committee's meetings.

Academics and other legal specialists are frequently invited to participate in the preparation of opinions and reports on international law's issues as well as to attend international conferences and meetings as members of the Polish delegations.

Lawyers from the LTD give lectures in the Diplomatic Academy, teach at universities and at other schools of higher learning as well as frequently participate in debates and conferences on topics related to their field of expertise. Many of them are members of the International Law Association.

PORTUGAL

1. What is the title, rank and position of the Legal Adviser?

The “Department of Legal Affairs” (DLA) of the Portuguese Ministry of Foreign Affairs (MFA) was created 10 years ago, in February 1994, replacing the previous legal office (legal and treaty office). The Department is headed by a Director, who holds the rank of a Director-General within the MFA. The Director can be a diplomat or be recruited outside of the diplomatic service (civil servants, lawyers, professors of law, etc.). Since 1994, there have been three directors, who were recruited outside of the diplomatic service.

2. What are the principal functions of the OLA?

The DLA is a central service that provides support and advice to the Minister and to the other services of the MFA with regard to both international and domestic law. Its “core business” is international law, though it has responsibilities also with regard to domestic law. There are other services in the MFA outside the DLA that deal with legal issues, namely regarding European law.

The DLA also gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval.

The Director of the DLA has acted as agent for the Government before the International Court of Justice (but not before the European Court of Human Rights, which is currently dealt with by the Ministry of Justice and the Office of the Attorney-General, or the European Court of Justice).

The DLA is responsible for following the principal international legal forums such as the COJUR with the CFSP in the European Union, the CAHDI of the Council of Europe and the 6th Committee of the United Nations General Assembly.

It also has important responsibilities in the field of international judicial co-operation: it receives and transmits extradition requests as well as all other judicial acts involving foreign courts.

3. Please give a brief description of the staff employed by the OLA, including overseas staff

There are currently 9 persons working in the DLA in Lisbon, including the Director, from which 2 are career diplomats. The other 7 are lawyers, professors of international law, civil servants and consultants with a law degree. There are also at the moment 2 trainees that help with research work and 1 translator.

The DLA has no overseas staff, although there are posts of legal advisers in several diplomatic missions and embassies (e.g. Permanent Missions to the UN in New York and Geneva, Permanent Representation to the EU in Brussels, Embassies in Madrid and Maputo, etc.).

4. Briefly describe the organisation and structure of the OLA

The DLA is structured around two services: international law service and domestic law service. Each service has a director that reports to the Director of the DLA. These directors are either diplomats or civil servants. The staff is divided between these two services (5 in the international law service, including the director, and 3 in the domestic law service).

There is also a translation section.

The DLA has no financial autonomy, the budget being administered by the Secretary-General and the Department of Administration of the MFA.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The DLA is a central service of the MFA, whose head ranks as Director-General and reports directly to the Minister and Secretaries of State. The Director and his staff are not part of the diplomatic service, but career diplomats may also be posted in the DLA while in Lisbon.

6. What are the main contacts of the OLA within Government?

The DLA gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval. Therefore, all international agreements and other instruments concluded by Portugal, even if negotiated by other departments in the MFA and other governmental departments have to be approved by the DLA.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The MFA/DLA may hire lawyers in private practice, when need arises, such as for example, to act as counsel and advocate in proceedings before international courts and tribunals. Legal opinions may also be requested to lawyers in private practice or to academics.

At the moment, the DLA employs 2 professors of international law (the director and a consultant) and sometimes entrusts academics that are specialists in given fields to attend certain international meetings (International Criminal Court negotiations, etc.).

8. Please provide a brief bibliography on the OLA, if available

There is currently no bibliography on the Portuguese DLA.

ROMANIA

1. Title, rank and position of the Legal Adviser?

The title of Legal Adviser as such does not exist within the Romanian Ministry of Foreign Affairs. Its functions are carried out by two structures: The General Directorate for Legal Affairs, headed by a Director General, and the Directorate for Legislation and Domestic Legal Disputes. The General Directorate of Legal Affairs is composed of the Directorate for International Law and Treaties, Directorate for European Community Law and of the Office on Boundaries and Maritime Delimitations.

2. What are the principal functions of the OLA?

The tasks are divided between the existing structures. Thus, The General Directorate of Legal Affairs, through the Directorate for International Law and Treaties is responsible for:

- studying and elaborating the MFA's opinions and points of view on international law issues related to Romania's external relations;
- contributing in resolving matters of political and juridical nature (mainly by inter-state negotiations);
- providing legal advice and expertise on matters of international law;
- initiating negotiations and participating in negotiations of a great number of treaties, mainly interstate or intergovernmental ones, as well as endorsing the drafts agreements concluded by ministries or local administration authorities;
- monitoring the fulfillment of Romania's rights and obligations arising from the international legal instruments to which Romania is a party;
- performing the function of depositary of treaties and keeping the record of the bilateral and multilateral treaties to which Romania or the Government of Romania is a party;
- participating in the activity of international organizations, mainly in meetings dealing with legal matters and to other international meetings on international law issues.

The General Directorate for Legal Affairs, through the Directorate for European Community Law is responsible, *inter alia*, for:

- re-negotiating the bilateral treaties with third States, other than EU Member States, in view of bringing the obligations of Romania, stemming out from such treaties, in line with the *acquis communautaire*;
- issuing opinions on various topics related to European affairs;
- elaborating, together with the Department for European Affairs within the Government of Romania, of the governmental positions upheld before the Court of Justice of the EC;
- negotiating, together with the relevant Romanian authorities, the mixed agreements concluded between the EC and the Member States on one hand and third States on the other hand.

The General Directorate for Legal Affairs, through the Office on Boundaries and Maritime Delimitations is responsible for:

- preparing draft agreements, initiating the proceedings for the approval of the negotiations, conducting the negotiations and overseeing the implementation of border regime treaties;
- vetting and endorsing draft agreements as well as participating in the negotiations of various agreements on the setting-up of border crossing points and the regulation of their functioning, the setting up and the functioning of border contact centers, the co-operation of border authorities and other matters relevant for the borders of Romania;
- representing the Ministry of Foreign Affairs in joint commissions mandated with the demarcation of the borders with neighboring countries and maintenance of the border line and border signs;
- managing the proceedings before the International Court of Justice in the case "*Maritime Delimitation in the Black Sea (Romania v. Ukraine)*";

- negotiating with neighboring countries the delimitation of maritime spaces;
- formulating policies and positions as well as opinions on various law of the sea matters (other than the delimitation of maritime spaces);
- participating in the activity of various international bodies dealing with law of the sea issues.

The Directorate for Legislation and Domestic Legal Disputes is mainly responsible for participating in the proceedings before domestic courts, to settle the domestic litigations in which the Ministry is involved. It also provides legal and operational advice on issues of domestic law.

3. Give a brief description of staff employed by the OLA, including overseas staff.

The staff of the General Directorate of Legal Affairs consists mainly of young diplomats (around 20 diplomats). All of them have a law degree, having been recruited through examination, like all the other diplomats of the MoFA. Some of them are holding master degree or are PhD candidates.

The staff of the Directorate for Legislation and Domestic Legal Disputes consists of approximately 10 legal advisers. They deal mostly with domestic legal matters.

There is a limited number of diplomats with legal studies that may be posted abroad at missions/embassies requiring legal expertise (especially the Permanent Missions of Romania to United Nations in New York and Geneva, the Permanent Mission of Romania in Strasbourg or the Romanian Embassy in The Hague).

4. Briefly describe the organization and structure of the OLA.

The General Directorate for Legal Affairs is headed by a Director General. Within the General Directorate, the Directorate for International Law and Treaties and the Directorate for European Community Law are headed by a director, whereas the Office on Boundaries and Maritime Delimitations is headed by a head of office.

The directors, as well as the head of office are also diplomats. Every diplomat working in these divisions has some specific fields under his/her responsibility (ex. Environmental issues, Defense issues, UN issues etc.) but they can be in charge at any moment, if case may be, of any other area of law, having in view their comprehensive training.

The Directorate for Legislation and Domestic Legal Disputes is headed by a director. The director is a diplomat (although this is not a pre-condition for holding this position) graduated in law.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The General Directorate for Legal Affairs has an important role within the MoFA, all the other directorates requesting legal advice or expertise on issues of international law. It endorses the internal ministerial acts which involve international legal aspects.

The General Director is subordinated to the Secretary General of the MoFA, while the head of the Directorate for Legislation and Domestic Legal Disputes is subordinated directly to the Minister of Foreign Affairs.

6. What are the main contacts of the OLA within Government?

It provides legal advices on matters of public international law to other institutions. There exists a permanent relationship with the main Ministries, especially with the Ministry of Justice, the Ministry of Economy and Finances, the Ministry of Labor. This contact is almost all the time established through the International Relations Departments that exists within those ministries. It is worth mentioning that this cooperation between the MoFA/ Directorate General for Legal Affairs and the other Romanian authorities is somehow institutionalized by way of an internal normative act, *i.e.* Law no. 590/2003 on treaties.

Generally, all communication between the State's main institutions (Government, Parliament, Presidency etc.) related to treaties or other legal acts are made through the General Directorate of Legal Affairs.

Due to its activity, the Directorate for the European Community Law has as a main contact the Department of European Affairs within the Government of Romania.

7. The relations of the OLA with lawyers in private practice, academics and legal institutions.

There is a good communication with academics, research institutes or other legal institutions. Sometimes, their representatives are consulted on the international law issues. The diplomats who work within the Office of the Legal Adviser participate in scientific conferences and meetings. Some of them have a professorial career, being in parallel university assistants, thus facilitating and improving the relations with the academic community.

8. Provide a brief bibliography on the OLA, if available.

There is no bibliography which refers to the role of the structures having the role of OLA within the Romanian Ministry of Foreign Affairs.

RUSSIAN FEDERATION

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser's title is the Director of the Legal Department of the Ministry for Foreign Affairs of the Russian Federation. At present the Director of the Legal Department is also a member of the Collegial Board of the MFA dealing with most significant matters of the foreign policy. The Director daily contacts the Deputy-Minister for the Foreign Affairs and in urgent cases can report directly to the Minister.

2. What are the principal functions of the OLA?

In general principal functions of the Department are to provide advise on matters of the international law relating to foreign policy, to make proposals and report on matters of codification and progressive development of the international law, to deal with international law aspects of maintenance of international security, pacific settlement of disputes, issues of succession, continuity, recognition; to consider legal aspects of armed conflicts, international humanitarian law; diplomatic and consular law. The Department provides for maintenance of the Ministry's registrar of international treaties, acts as depositary; reports on matters of conclusion, suspension of international treaties, on the status and interpretation of treaties, reservations and objections thereto. The Department maintains the treaty database; participates in drafting treaties including on state boundaries, demarcation; in formulation of Russia's position on protection of human rights, on legal assistance to Russian citizens abroad, on citizenship, status of aliens. Within the Department's competence are issues of the law of the sea, space law, Arctic and Antarctic, environmental law. The Department covers legal aspects of various international organizations activities including UN, OSCE, CIS, EU, NATO, ICAO, WIPO, etc.; advises on investment and dual taxation treaties; on status of IOs in Russia. It provides legal opinion on any document originating from the Ministry containing matters of international law.

3. Please give a brief description of staff employed by the OLA, including overseas staff

Professional staff of the Legal Department (approx. 45 pers.) varies in age and rank. Gender balance is approx. 50/50, where each professional staff member has high educational legal background and possesses knowledge of foreign languages.

4. Briefly describe the organisation and structure of the OLA

The Department is divided in a number (6) of divisions covering separate branches of international law: international public law, international private law, law of treaties, legal aspects of multilateral cooperation, general issues of international law, legal aspects of state boundaries.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Department is one of the functional departments of the MFA.

6. What are the main contacts of the OLA within Government?

During exercise of its functions the Department contacts relevant departments of the ministries and agencies within the Government of the Russian Federation, the Russian Parliament (the State Duma and the Federal Council) as well as its subsidiary bodies, the administrative organs of the regions of the Russian Federation and local self-governance authorities.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The Legal Department promotes contacts with the Russian Association of International Law, various Russian scientific and educational institutions, dealing with matters of international law. A number of the Department's officials lecture in the Moscow State Institute for International Relations and Diplomatic Academy on numerous aspects of international law.

8. Please provide a brief bibliography on the OLA, if available

Bibliography on the Legal Department itself is not available; nevertheless, its opinion on the use of force has been recently published in ICLQ, vol. 52, part. 4, Oct. 2003, 1059-1063.

SERBIE

1. Title, rank and position of the Legal Adviser

The Legal Adviser (LA), in the rank of ambassador-at-large, has its own office within the Office of the Minister of Foreign Affairs. LA competences are defined by the Rules and Regulations of the Ministry for Foreign Affairs (MFA), while LAs are elected from within the ranks of prominent experts of international public law.

2. What are the principal functions of the Office of the Legal Adviser?

The principal functions of the Office of Legal Adviser (OLA) are provided for by the MFA Rules and Regulations and include: providing opinions and proposing positions on all issues related to international public and private laws relevant to the development and implementation of Serbia's foreign policy; analyzing and studying major issues of international law, Serbia's membership and activities in the United Nations and other international organizations; following and interpreting the rules of international law in MFA context of concrete issues and needs; coordinating the work of legal experts for MFA needs; participating in the work of international conferences and international bilateral negotiations; rendering advice to Serbia agents in courts and arbitration tribunals; other business tasked by the Minister of Foreign Affairs.

3. Number of lawyers including overseas staff

There are 18 lawyers specialised in various branches of law in the Office of the Legal Adviser and the MFA International Legal Department.

The diplomatic service of Serbia provides no special positions for the lawyers in its diplomatic and consular missions abroad.

4. Organisation of the Legal Office

The MFA International Legal Department consists of the following divisions:

- Treaty Division
- EU Laws Division
- International Legal Institutions Division
- International Private and Commercial Law Division

5. What is the OLA's place within the MFA?

The OLA is part of the Office of the Minister of Foreign Affairs and is directly responsible to the Minister.

6. What are the main contacts of the OLA within the Government?

The OLA co-operates with high ranking officials of the Government and the Parliament, particularly with the Ministry of Justice, and other ministries.

7. Relations with lawyers in private practice, academics and legal institutions

The OLA co-operates with prominent lawyers, experts in international law, renowned attorneys and other institutions. Therefore, it pays special attention to the further education of its staff, their participation in seminars and courses on international public and private laws.

The OLA sends young diplomats to courses organised by the Diplomatic Academy within the MFA.

8. Please provide a brief bibliography of the OLA, if available

No bibliography concerning the work and role of the OLA is available.

SLOVAK REPUBLIC

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the position of the Director General heading the Directorate for Legal and Consular Affairs of the Ministry of Foreign Affairs. This position is assigned to regular career diplomats with legal background and it is based on the principle of rotation.

2. What are the principal functions of the OLA?

The principal function of the Legal Adviser is to provide legal advices and support to the Minister and other departments of the Ministry on issues of public international law, the EU law, domestic and constitutional law. The Legal Adviser also provides assistance with other Ministries on international legal matters and supervises the conclusion of all international treaties. He presents the Ministry's positions before the Constitutional Court of the Slovak Republic and in proceedings before international courts and arbitration bodies except proceedings before the ECJ and the ECHR that fall within the responsibility of the Ministry of Justice.

In addition to these functions the Director General is responsible for consular and human rights affairs within the Ministry.

3. Please give the brief description of staff employed by the OLA, including overseas staff

There are currently 12 lawyers responsible for international legal affairs, 8 lawyers responsible for domestic legal affairs and there are also lawyers responsible for human rights and consular affairs at the headquarters in Bratislava. There are no special legal postings abroad in Slovak diplomatic service.

4. Briefly describe the organisation and structure of the OLA

The Directorate consists of four departments:

- the International Law Department comprises the International Treaties Unit, the International Public Law Unit and the EU Law Unit.
- the Legal and Administrative Department comprises the Legislation Unit and the Administrative Unit.
- the Human Rights Department comprises the Human Rights Unit and the National Minorities Unit.
- the Consular Department comprises the Consular Assistance Unit, the Consular Cooperation Unit, the Consular Coordination Unit and the Consular Programmes Unit.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Directorate for Legal and Consular Affairs is one of six main Directorates within the Ministry.

6. What are the main contacts of the OLA within the Government?

The Directorate cooperates with relevant departments and directorates of the Ministries within the Government, as well as with other constitutional bodies (Office of the President, Committees of the Parliament, the Agent before the ECHR etc.) on issues concerning the international public law, treaties, human rights and consular affairs.

7. Please describe the relations of the OLA with lawyers in private practise, academics and legal institutions.

Some lawyers of the Directorate educate the international public law and/or international relations at universities. Many of them are members of the Slovak Society for International Law

8. Please provide a brief bibliography on the OLA, if available

Not available.

SLOVENIA

1. Title of the Legal Adviser and the Legal Office

The Legal Adviser is Head of the International Law Department. The Legal Advisers are part of the Diplomatic Service.

2. Principal functions

The principal function of the Office of the Legal Adviser is to provide legal advice to the Minister of Foreign Affairs and other Departments within the Ministry of Foreign Affairs on issues of public international law and EU law. It also provides legal advice to all other Ministries of the Government, assists with drafting the texts of the agreements, the administrative procedure with regard to their conclusion and ratification in the Government or the Parliament. Its representatives attend bilateral and multilateral agreement negotiations. It also prepares legal analyses, reports and other information for the Ministry of Foreign Affairs, other bodies of the Government, and the Parliament. The Legal Adviser or his deputies attend meetings of the Parliament committees and the plenary Parliament sessions. It supervises all the phases of the conclusion of international agreements and other international legal acts of Slovenia, keeps the register and acts as a guardian of the treaties. The Legal Adviser and members of the Office frequently attend conferences and meetings in Slovenia and abroad.

3. Number of lawyers including overseas staff

There are currently about 12 lawyers working in the International Law Department in Ljubljana. The Slovenian diplomatic service has no special career track for lawyers, and there are also no special legal postings abroad.

4. Organisation of the Legal Office

The Legal Office has two units: the Unit for public international law and the Unit for EU law. Both units perform similar functions, and the legal advisers in those units specialise either for questions of public international law or EU law, respectively. Each legal adviser is assigned a number of areas, i.e. internal affairs, environment, defence, including the international organizations, and his work focuses mainly on those areas. Legal advisers are, however, expected to take on a variety of work from different areas of law.

The work of the office is supported by a registry.

5. Place within the Ministry of Foreign Affairs

As has been said the Legal Adviser is a head of the International Law Department and reports to the State Secretary. Officers, who serve in the department, are part of the Diplomatic Service.

6. Main contacts within Government

The Office of the Legal Adviser is the principal service within the Government for the issues of public international law and EU law. The Office has close contacts mostly with the Government Office for Legislation and the Ministry of Justice.

The Office of the Legal Adviser has a general advisory role and must be consulted in advance on all the international agreements and other legal acts, entered into by the Government.

7. Relations with lawyers in private practice, academics and legal institutions

Lawyers in private practice are retained by the Ministry of Foreign Affairs mostly in cases of suits abroad, or where the need arises. The Legal Office is supported by the Law Professors at the Law Faculty of the University of Ljubljana, and often retains them as consultants.

SUISSE

1. Quels sont les titre, rang et position du Conseiller juridique?

Jurisconsulte, Directeur de la Direction du droit international public (DDIP), Ambassadeur.

Actuellement, le Directeur de la DDIP est également Ambassadeur de Suisse auprès de la Principauté de Liechtenstein.

2. Quelles sont les principales fonctions du BCJ?

Les fonctions de la Direction du droit international public sont décrites à l'article 9 de l'Ordonnance sur l'organisation du Département fédéral des affaires étrangères du 29 mars 2000 (Recueil systématique 172.211.1) :

Art. 9 Direction du droit international public

¹ *La Direction du droit international public traite les questions juridiques se rapportant au droit international public et aux relations extérieures de la Suisse.*

² *Elle poursuit les objectifs suivants:*

- a. *elle veille que les autorités suisses interprètent et appliquent correctement toutes les règles de droit international public;*
- b. *elle s'engage en faveur du respect et du développement du droit international public.*

³ *Dans ce cadre, elle exerce les fonctions suivantes:*

- a. *elle assiste le Conseil fédéral dans la conduite de la politique extérieure par des conseils juridiques;*
- b. *elle participe à l'élaboration du droit international public, en particulier lors de la négociation, la conclusion et la mise en oeuvre de traités internationaux;*
- c. *elle s'occupe du droit du voisinage et de la coopération transfrontalière, notamment des relations avec la Principauté de Liechtenstein;*
- d. *elle mène la procédure de conclusion des traités internationaux, gère la documentation qui s'y rapporte et assume la fonction de dépositaire;*
- e. *elle est en outre en chargé des domaines suivants:*
 - 1. *les droits de l'homme, compte tenu des compétences des autres départements,*
 - 2. *le droit international humanitaire,*
 - 3. *la sécurité internationale et la neutralité,*
 - 4. *le droit européen, en collaboration avec le Bureau de l'intégration et sous réserve des compétences de l'Office fédéral de la justice en matière de vérification de la compatibilité du droit suisse avec le droit européen,*
 - 5. *la navigation sur le Rhin et la navigation maritime.*

Les paragraphe 2 et paragraphe 3 lettres a) et b) portent plus spécifiquement sur le rôle du Jurisconsulte.

3. Veuillez donner s'il vous plaît une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger

A Berne, environ 50 personnes (dont 50% de femmes) travaillent à la Direction du droit international public. Une vingtaine de ces personnes sont des diplomates, le reste n'est pas « transférable ». Aucun personnel en poste à l'étranger n'est directement subordonné au Chef de la DDIP.

4. Veuillez décrire brièvement l'organisation et la structure du BCJ

La Direction du droit international public comporte deux divisions :

a) La « Division du droit international public, des droits de l'homme et du droit humanitaire ». Cette division est dirigée par la Vice-Directrice de la DDIP et comprend les sections et services suivants :

- Section du droit international public (10 postes)
- Section du droit diplomatique et consulaire (3 postes)
- Section des droits de l'homme et du droit humanitaire (9 postes)
- Coordination du droit international humanitaire – CPEA/PPP (2 postes).

b) La « Division des traités internationaux du droit des voisinage et des communications ». Elle est dirigée par le Sous-Directeur de la DDIP et comprend les sections et services suivants

- Section des traités internationaux (7 postes)
- Section des frontières et du droit de voisinage (4 postes)
- Section des communications (3 postes)
- Service fédéral d'information et de coordination en matière de coopération transfrontalière (1 poste)

c) En dehors de cette structure, le Directeur de la DDIP, dans ses fonctions de Jurisconsulte, est assisté par le Jurisconsulte adjoint. Ce dernier dirige en outre la cellule « développement du droit international » (2 postes).

d) L'Office suisse de la navigation maritime à Bâle fait aussi partie de la DDIP (5 postes).

5. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?

A côté de la Direction politique, de la Direction du développement et de la coopération et de la Direction des ressources et du réseau extérieur, la Direction du droit international public est l'une de quatre directions qui font partie du Secrétariat d'État. A côté du Secrétariat d'État (qui traite toutes les questions politiques), on trouve le Secrétariat Général (qui traite les questions liées à la conduite du Département).

Bien que la DDIP soit formellement subordonnée au Secrétaire d'État, l'accès direct à la Cheffe du Département est en tout temps assuré.

Le respect et la promotion du droit international, notamment du droit international humanitaire et des droits de l'homme, est un des cinq objectifs de la politique extérieure suisse fixés par le Conseil fédéral. Le droit international fait ainsi partie intégrante de la politique extérieure de la Suisse. Inversement, la DDIP participe activement à la formulation même de la politique étrangère et aux décisions relatives à sa mise en œuvre au quotidien.

6. Quels sont les principaux contacts du BCJ au sein du Gouvernement?

Au sein du Département fédéral des affaires étrangères, les contacts principaux sont la Cheffe du Département, le Secrétaire d'État, le Secrétaire général, les Directeurs de la Direction Politique et de la Direction du développement et de la coopération ainsi que les Chefs des Divisions politiques I à VI (structures subordonnées à la Direction politique).

Le gouvernement suisse se compose de sept Conseillers fédéraux et ses décisions sont prises en collectif. Des lors, la DDIP est régulièrement consultée ou appelée à traiter, en dehors des compétences proprement dites du Département fédéral des affaires étrangères, des questions liées au droit international public et des questions constitutionnelles concernant les relations internationales, par exemple dans l'élaboration d'actes législatifs et de mesures administratives ou judiciaires. Dans ce contexte, les principaux contacts en dehors du Département sont les

directeurs des offices, notamment du Département fédéral de justice et police et du Département fédéral de la défense, de la protection de la population et du sport.

7. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques

La DDIP entretient des contacts réguliers formels et informels avec des universitaires, des institutions juridiques, des associations d'avocats et des ONG travaillant dans le domaine du droit international. Puisque la Suisse est relativement petite, les acteurs principaux dans le domaine du droit international public sont, en général, assez bien connus et les contacts informels faciles.

Trois collaborateurs de la DDIP, dont le Jurisconsulte et le Jurisconsulte adjoint, enseignent eux-mêmes aux facultés de droit des Universités de Bâle, Fribourg et Lucerne. En outre, la DDIP dispose d'un fonds pour des actions volontaires en faveur du droit international public. Ce fonds permet, le cas échéant, de soutenir financièrement des projets concrets émanant, entre autre, des milieux académiques et des ONG (environ 50 projets par an).

8. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant

Aucune publication récente n'est à mentionner qui porterait spécifiquement sur le rôle de la DDIP et du Jurisconsulte.

SWEDEN

1. Title of the Legal Adviser and the Legal Office

The Legal Adviser, whose official title in English is Director General for Legal Affairs, holds the rank of Ambassador within the Ministry of Foreign Affairs.

2. Principal functions

The Director General for Legal Affairs is one of six Director Generals within the Ministry. One for Administrative Affairs, one for Political Affairs, one for International Development Cooperation, one for Trade Policy and one for Consular Affairs. Together with the other Director Generals the Director General for Legal Affairs has a seat in the executive body of the Ministry.

The principal function of the Director General for Legal Affairs is to have an overall comprehensive responsibility for legal matters falling within the competence of the Ministry, primarily for such issues that are dealt with in the Legal Secretariat and in the International Law, Human Rights and Treaty Law Department. If legal issues arise in other areas, e.g. with regard to consular matters, in matters relating to foreign diplomats posted in Stockholm or at our own embassies abroad, it is for the Legal Adviser to give legal advice to the extent necessary. You will find lawyers serving in the Ministry in many other departments such as the Protocol Department, the Trade Law Department and the Consular Department.

According to the internal regulations for the Ministry for foreign Affairs the Director General for Legal Affairs is given a wide discretionary power to defer matters to other Departments in the Ministry. One Director and one Senior Legal Adviser at the International Law, Human Rights and Treaty Law Department have e.g. been authorized to act as agent for the Government before the European Court of Human Rights. A similar task is entrusted with certain senior officials in the Legal Secretariat in cases before the European Court of Justice.

3. Organisation of the Departments under the supervision of the Director General for Legal Affairs

Most of those working in the above mentioned Departments are lawyers, some of whom have postgraduate experience from private practice or from other branches of the government. Some of them are part of the Diplomatic Service.

Sweden does not have any legal advisers posted overseas. However, traditionally functions within our larger Representations (i.a. New York, Geneva and Brussels) and some embassies, such as the one in the Hague, are staffed by officials with suitable legal background.

A Deputy Director General heads the International Law, Human Rights Law and Treaty Law Department as well as the Legal Secretariat. His or her deputy holds the rank of Director. Advisers holding the ranks in descending order of Deputy Director and Desk Office supplement them.

The departments under the supervision of the Director General have different responsibilities.

The International Law, Human Rights Law and Treaty Law Department is responsible for general advice on international law and the monitoring of international law issues and human rights in a multitude of international forums. The area of responsibility includes humanitarian law, the law of the sea and treaty law, as well as issues concerning immunity and privileges. Here you will find legal expertise in these areas respectively. The Department currently has two Principal Legal Advisers on International Law. They have academic credentials as well as long diplomatic experience. They have general expertise of international law and provide advice and analyses on legal and legal policy issues to the Ministry for Foreign Affairs, but also to other Ministries. The department interacts closely with the political departments in the Ministry in the formation of Swedish policy, both on demand and proactively and it represents Sweden in international

negotiations on international law matters. Two of the lawyers serving at the department are assigned with the task to act as agent and plead cases on behalf of Sweden before the European Court of Human Rights in Strasbourg and the department also represents Sweden in individual cases before the UN human rights committees. A special Human Rights Ambassador represents the Ministry for Foreign Affairs and the Government in Human Rights issues, e.g. in the bilateral Human Rights dialogue with other countries. The Department holds the Swedish register over treaties to which Sweden is a party and sees to it that such treaties are published in the Official Journal for such treaties. It receives notifications of reservations and declarations to treaties, among others from the UN, and examines their legal validity.

The Legal Secretariat has two main tasks. It provides legal expertise in Constitutional Law matters and Internal Law matters within the Ministry and assists in one of the main tasks of the Director General, i.e. to secure that decisions and other actions taken by the three ministers serving in the Ministry or which are prepared within the Ministry are in conformity with the Swedish Constitution and other laws and regulations. The Legal Secretariat also assists in preparing Bills to Parliament and draft legislation in matters for which the Ministry is responsible. The Legal Secretariat also provides legal advice on community law matters within the Ministry. Two officials of the Secretariat are assigned with the task of pleading cases on behalf of Sweden before the European Court of Justice.

4. Place within the Ministry for Foreign Affairs

The Director General for Legal Affairs is a central officer of the Ministry for Foreign Affairs and is the one within the Ministry who, with the assistance of the Departments under his/her supervision provides legal advice to the Ministry and its ministers, and he/she will be consulted or will offer advice on all issues in which legal points may arise.

5. Main contacts within Government

In Sweden there is no general Government Legal Service. Each Ministry has its own Legal Service. The Director General for Legal Affairs of the Ministry for Foreign Affairs and his advisers in the International Law, Human Rights and Treaty Law Department can, however, be seen as the main centre of legal expertise on international law within the whole Government Office. They will be consulted regularly by other branches of the Government Office when they deal with international law issues. With respect to Community Law the Legal Secretariat has a similar function, even if certain expertise can be found in other parts of the Government Office notably in the Prime Ministers Office.

6. Relations with lawyers in private practice, academics and legal institutions

Where the need arises e.g. in property disputes and controversies with locally employed staff abroad the Ministry sometimes retains lawyers from private practice on an ad hoc basis.

The lawyers working at the Legal Secretariat and at the International Law and Human Rights and Treaty Law Department maintain regular contacts with the universities in Sweden and participate in conferences and meetings of learned societies (such as the International Law Association and the International Association of Penal Law). They are also encouraged to give lectures and attend meetings arranged regularly by the Ministry with "academia".

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

1. Title, rank and position of the Legal Adviser:

The International Law Directorate is headed by a State Counsellor for International Law (Ambassador/Minister Plenipotentiary), who is at the same time Chief Legal Advisor at the MFA. The Legal Advisers are part of the Diplomatic Service.

2. Principal functions:

- to provide legal opinion and advice on issues related to the foreign policy of the Republic of Macedonia from the aspect of international public law, international human rights law, international humanitarian law and the EU acquis;
- to follow international law development and codification, and to participate in the work of the UN 6th Committee; the UN International Law Commission; the intergovernmental cooperation within the Council of Europe; the Hague Conference on Private International Law;
- to follow and analyze the jurisprudence of the European Court of Human Rights (ECHR), to give legal opinion and, if need be, to participate in the defence of cases against the Republic of Macedonia before the ECHR;
- to give legal opinion on cases of individual petitions against the Republic of Macedonia before monitoring authorities envisaged under UN conventions on international legal protection of human rights;
- to follow and analyze the jurisprudence of the International Court of Justice; the International Criminal Tribunal for the Former Yugoslavia; the International Criminal Court;
- to follow the EU acquis development, and to coordinate it with and compare it to the international legal obligations of the Republic of Macedonia;
- to initiate, participate and coordinate all stages of the negotiations for concluding bilateral international agreements to which the Republic of Macedonia is a Party;
- to participate and represent the Republic of Macedonia in negotiations for multilateral international agreements;
- to initiate and coordinate the national procedure for signature, accession and ratification of the international agreements to which the Republic of Macedonia is a Party;
- to fulfil the function of depository and repository of international agreements to which the Republic of Macedonia is a Party and to maintain the database;
- to follow the implementation of the legal obligations of the Republic of Macedonia under the international agreements; to coordinate the preparation and the defence of the reports of the Republic of Macedonia about the conventions on international legal protection of human rights.

3. Number of staff employed by the OLA:

The managerial staff consists of State Counsellor, Head of Sector for International Law, Assistant Head of Sector, and 3 Heads of Department. The total number of employees is 11 graduate lawyers, 1 administrative officer (secretary and depository officer for international law database).

4. Organizational Structure of the International Law Directorate:

The ILD has: 1 sector and 3 departments:

- department for bilateral agreements;
- department for multilateral agreements
- department for EU law

5. Place of the Office/Directorate within the Ministry of Foreign Affairs:

ILD is one of the 17 Directorates in the MFA. State Counsellor for International Law reports to the State Secretary. Officers, who serve in the Directorate, are responsible before the State Counsellor for IL and they are part of the Diplomatic Service.

6. Main contacts within the Government:

The ILD is a main department and service within public administration for international law related issues and has regular contacts with all ministries and institutions, especially with the Secretariat for Legislation and the Ministry of Justice. The ILD has a general advisory role and it is usually consulted in advance on all the international agreements and other legal acts under the competence of the Government.

7. Relations with lawyers in private practice, academics and legal institutions

Lawyers in private practice are occasionally consulted mostly in cases when the Government has to respond before the international courts in the proceedings against it. The ILD has close contacts, cooperation and consultations with the international law departments from the universities and other scientific institutions.

TURKEY

1. Title, Rank and Position of the Legal Adviser

Title : First Legal Advisor
Rank : Director General
Position: The First Legal Advisor is the Head of the Legal Department (LD) within the Ministry of Foreign Affairs (MFA).

2. Principal Functions

According to article 12 of the Law No.4009, which regulates the organization and functions of the MFA, the functions of the LD are as follows:

- a) To provide legal advice to the other departments of the MFA concerning the ratification, implementation, revision/modification and termination of treaties or any other international legal instrument; to follow and evaluate the developments in the field of international law.
- b) To provide legal advice to the other departments of the MFA on any legal issue concerning international law, constitutional law and domestic law (including administrative law, civil law, labor law, contractual law, foundations law, etc.)
- c) To take prior legal measures aimed at protecting the interests of MFA or preventing any legal dispute as well as assisting in conclusion of treaties or agreements on such basis.
- d) To prepare the case files of administrative and judicial proceedings, as well as acting as counsel on behalf of the MFA in any proceeding before administrative courts commenced by its employees or any other litigants against the MFA.
- e) To evaluate and give legal opinion on bills and draft statutory regulations prepared by other departments of the MFA or other Ministries or governmental bodies.

3. Staff

There are currently 15 Legal Advisers working under the First Legal Adviser in the MFA.

There are also 13 legal advisers posted abroad, in Turkish Embassies/Missions.

4. Organization and Structure of the LD

The First Legal Adviser is responsible to the Under Secretary of the MFA.

Legal Advisers work under the authority of the First Legal Adviser and notwithstanding their different levels of seniority all Legal Advisers are considered equal in ranks.

The First Legal Adviser has the overall authority for administrative issues for the LD with the assistance of the relevant units of the MFA.

All Legal Advisers are responsible for various aspects of law and supported by the secretarial staff.

5. Place of the LD within the MFA

The LD is an advisory unit within the MFA. Other Departments of the MFA consult and where necessary request written legal opinion of the Legal Advisers.

Legal advisers work with a high degree of autonomy.

6. Main contacts of the LD within Government

Other Ministries or governmental bodies may seek legal advice of the LD of the MFA on international law issues.

As mentioned in 2 (a) above, the LD of the MFA is the main governmental unit in respect of ratification, revision/modification and termination of international treaties (with the exception of credit and loan agreements) as well as their implementation and interpretation.

7. Relations of the LD with lawyers in private practice, academics and legal institutions

The LD when it deems necessary may consult with and seek the advice of the lawyers in private practice, academics and legal institutions on certain legal issues.

Legal Advisers also attend the conferences and meetings organized by legal and governmental institutions.

Academics of high expertise on public international law may be appointed as the First Legal Adviser or Legal Adviser.

UNITED KINGDOM

1. Title of the Legal Adviser and the Legal Office

The office of the Legal Adviser to the Foreign Office (now called the Foreign and Commonwealth Office - FCO) was first created in the second half of the Nineteenth Century. The Legal Adviser, who holds the rank of Director General within the FCO, is the head of "Legal Advisers". The Legal Advisers are members of the Diplomatic Service; most remain legal advisers throughout their FCO careers.

2. Principal functions

The principal function of FCO Legal Advisers is to provide legal advice to Ministers and officials within the FCO. This involves advice on matters of public international law, European Union law, human rights law, constitutional law, the law relating to the British overseas territories, and domestic law (including for example freedom of information, data protection, employment, property, contractual matters). The Legal Advisers act as agent for the Government before international tribunals (including the International Court of Justice, the European Court of Human Rights and inter-State arbitrations), and frequently attend conferences and meetings both in the UK and abroad as head or members of the UK delegation.

The FCO's Treaty Section now (since April 2005) comes under the Legal Adviser, as does the Legal Library. The Treaty Section is responsible for treaty practice and procedure (including official publication), and provides information on those treaties to which the United Kingdom is, or has been, a party. In addition, the Treaty Section performs depositary functions in respect of the 35 multilateral treaties for which the UK is the depositary.

3. Number of lawyers (including those overseas)

There are currently about 30 lawyers working in FCO Legal Advisers in London. All are qualified as barristers or solicitors in some part of the UK, and some have post-qualification experience in private practice, in other Government Departments or in international institutions.

There are also a number of FCO legal advisers posted overseas, namely:

UK Mission to the UN in New York	2 lawyers
UK Mission to the UN in Geneva	1 lawyer
UK Permanent Representation to the EU (Brussels)	3 lawyers
British Embassy in The Hague	1 lawyer
British Embassy in Baghdad	1 lawyer

In addition, a legal adviser from the FCO is seconded to the Legal Secretariat to the Law Officers (i.e. the Attorney General and the Solicitor General, who are the principal legal advisers to the Government). Other secondments take place from time to time e.g. to the International Criminal Court. Postings are for three or four years and legal advisers typically serve two postings in the course of their careers.

4. Organisation of the Legal Office

Legal advisers in the FCO tend to work with a high degree of autonomy. Each legal adviser is assigned a number of "client" departments within the FCO, and those departments can request his or her advice whenever the need arises. Whilst there are some areas in which certain legal advisers may specialise, for example in EU law or international human rights law, all legal advisers are expected to be able to take on a variety of work spanning the breadth of the areas of law outlined in paragraph 2 above.

7. There are four grades within Legal Advisers: the Legal Adviser; three Deputy Legal Advisers; Legal Counsellors; and Assistant Legal Advisers.

8. The legal advisers may be supplemented by the employment of consultants, and in litigation and arbitration outside the UK are usually retained. Support to the legal advisers is available from one or two legal researchers, and from the secretarial, registry and Legal Library staff.

9. Management of the office is formally for the FCO administration, and in practice is largely the responsibility of the Legal Adviser and the Deputy Legal Advisers, with support also from Legal Counsellors.

5. Place within the Ministry of Foreign Affairs

The head of the Legal Advisers ranks as a Director General (i.e. reports directly to the Permanent Under-Secretary). The Legal Advisers are members of the Diplomatic Service. Assistant Legal Advisers are appointed at close to the top of the Delegated Grade structure of the FCO, equating to the rank of First Secretary. Legal Counsellors and Deputy Legal Advisers form part of the Senior Management Structure.

As has been said the principal function of Legal Advisers is to provide legal advice to the FCO, and they will be consulted or will offer advice on all issues in which legal points arise.

FCO Legal Advisers also help in organising a week-long course on international law each year, for non-lawyer colleagues in the Diplomatic Service, as well as lecturing on other courses with a legal content within the FCO, e.g. legal awareness courses, human rights courses.

6. Main contacts within Government

As well as providing legal advice within the FCO, Legal Advisers are the main centre of expertise on public international law within Government, and are often consulted by other Government Departments when international law issues arise. Thus, for example, all treaties which the UK enters into (with a few exceptions, such as double taxation agreements) have to be cleared by the FCO.

FCO Legal Advisers act as agent on behalf of the Government in most international judicial proceedings (though not before the European Courts in Luxembourg). Thus, the FCO Legal Advisers act as agent in cases before the International Court of Justice and the European Court of Human Rights, as well as in international arbitration (for example, the arbitration proceedings brought by Ireland in respect of the *MOX Plant*).

The Government's principal legal adviser is the Attorney General. Departmental lawyers seek his advice on matters of general importance for the Government as a whole. As noted above a member of FCO Legal Advisers is seconded to the Law Officers.

FCO Legal Advisers are not part of the Government Legal Service, to which legal advisers to other Government Departments belong. Nevertheless FCO Legal Advisers have close links with the Government Legal Service, and, for example, organise training courses on issues of cross-Departmental interest such as the European Convention on Human Rights and international humanitarian law.

7. Relations with lawyers in private practice, academics and legal institutions

The FCO retains lawyers from private practice where the need arises. In litigation and arbitration it is usual to instruct outside counsel for their advice and advocacy.

FCO Legal Advisers have traditionally been a part of what is an active "public international law community" in the UK, comprising lawyers from the public service and private practice as well as

academic lawyers. FCO Legal Advisers hold an annual academic seminar at the FCO to discuss topical issues in international law and to which all those teaching international law at UK universities are invited. Legal Advisers are also encouraged to participate in conferences, meetings of learned societies (such as the International Law Association and the British Institute of International and Comparative Law) and to write articles or books for publication.

8. Other considerations

There is a considerable literature on the role of FCO Legal Advisers, including:

Sir Franklin Berman, "The Role of the International Lawyer in the Making of Foreign Policy", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL 2000)

Michael C. Wood, "The Role of Legal Advisers at Permanent Mission to the United Nations", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL 2000)

F.D. Berman, "The International Lawyer Inside and Outside Foreign Ministries" (in C.Hill and P. Beschoff (ed.s) *Two Worlds of International Relations – Academics, Practitioners and the Trade in Ideas*, Routledge, 1994)

Sir Arthur Watts, "International Law and International Relations: UK Practice" (1991) 2 EJIL 157-164

Sir Ian Sinclair, "The Practice of International Law: the Foreign and Commonwealth Office" (in Bin Cheng (ed.) *International Law Teaching and Practice*, Stevens, 1982).

Sir Gerald Fitzmaurice and Sir Francis Vallat; "Sir (William) Eric Beckett, KCMG, QC (1896-1966) – An Appreciation" (1968) 17 ICLQ 267-326

Dr. Clive Parry "Background paper on National Organization and Procedures - United Kingdom" (in HCL Merrillat (ed.) *Legal Advisers and Foreign Affairs*, Oceana, 1964)

Brian Simpson "The Rule of Law in International Affairs" (2003) Vol.125 *Proceedings of the British Academy*, pp. 211-263

CANADA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser at Foreign Affairs Canada holds a rank equivalent to Assistant Deputy Minister and reports to the Minister and Deputy Minister of Foreign Affairs.

The Legal Adviser heads the Legal Branch of Foreign Affairs Canada which consists of the Legal Affairs Bureau and Justice Legal Services. The position is traditionally occupied by a member of the Canadian Foreign Service and is not a political appointment. In Canada, the position of Legal Adviser on international affairs has existed in the foreign ministry since 1913.

2. What are the principal functions of the OLA?

The Legal Affairs Bureau of Foreign Affairs Canada plays a key role in assisting the Minister of Foreign Affairs in his statutory duty to foster the development of international law and its application in Canada's external relations. To this end, the Legal Affairs Bureau is the principal source of legal services and advice to the Government of Canada on an increasingly wide and complex range of international issues. In addition to providing advice on Canada's rights and obligations under international law, the Bureau also manages and develops policy on international legal issues, and ensures that Canada's domestic legal regime is in accord with its international obligations.

In addition, the Legal Affairs Bureau provides operational services. The Bureau coordinates written and oral advocacy on behalf of Canada in international litigation, particularly before the International Court of Justice, and plays an important role in the negotiation of treaties and other international instruments. The Bureau's Legal Officers often serve as members of Canadian delegations for international negotiations and meetings. The Bureau also provides expertise on the ratification and interpretation of treaties and maintains Canada's Treaty Registry. Finally, the Legal Affairs Bureau provides services to the public, including the management and espousal of international claims and the authentication of documents for service abroad.

Justice Legal Services provides legal services to Foreign Affairs Canada on a wide range of domestic issues concerning the application of Canadian federal, provincial and territorial laws, regulations and policies to the department's mandate and corporate activities.

3. Please give a brief description of staff employed by the OLA, including overseas staff

The Legal Branch currently has approximately 80 full-time employees. The Legal Affairs Bureau employs 34 Legal Officers, most of whom are also rotational Foreign Service Officers. Justice Legal Services employs approximately 15 Legal Counsel, and is staffed primarily by Department of Justice lawyers. All Legal Officers hold law degrees from recognized Canadian law schools, and most are also members of at least one provincial bar association, (and are thus eligible to practice law in Canada). Many Legal Officers have previous legal experience in the private or public sector. Other staff working in the Legal Branch include paralegals, administrative assistants, records officers, treaty clerks and authentication of document officers.

Foreign Service Officers who work as Legal Officers while posted at headquarters in Ottawa, are often also rotated abroad to work at Canadian missions around the world. While these overseas postings may involve significant legal work, these Foreign Service Officers often find themselves engaged in the general work of the Canadian Foreign Service - promoting Canada's political, economic, trade and cultural interests. Certain positions abroad at Canada's Permanent Missions to the United Nations in New York and in Geneva, as well as in the Congressional and Legal Sections at the Canadian Embassy in Washington are staffed by Foreign Service lawyers.

4. Briefly describe the organisation and structure of the OLA

The Legal Branch at Foreign Affairs Canada is divided into two Bureaus - the Legal Affairs Bureau and Justice Legal Services. The head of each Bureau reports directly to the Legal Adviser. The Branch also has an Area Management Office responsible for administration.

The Legal Affairs Bureau, which is headed by the Deputy Legal Adviser and Director General, consists of three Divisions: the Criminal, Security and Treaty Law Division; the United Nations, Human Rights and Economic Law Division; and the Oceans and Environmental Law Division. Each of these Divisions is led by a Director and is subdivided into two Sections supervised by Deputy Directors.

Within the Criminal, Security and Treaty Law Division, the Criminal, Security and Privileges and Immunities Law Section provides legal advice on issues relating to international crime, terrorism and security, and is the lead division for the negotiation and implementation of treaties in the criminal law field. The Treaty Law Section provides legal advice on treaty law and maintains Canada's Treaty Registry. As well, the Division assists Canadians with the authentication of documents for use in foreign jurisdictions.

The United Nations, Human Rights and Economic Law Division (which includes the United Nations, Human Rights & Humanitarian Law Section and the Economic Law Section) provides legal advice on areas relating to the United Nations, international peace and security, defence and disarmament, humanitarian law, human rights, children's rights, international health law, economic sanctions, international air and space law, international claims law and international economic law. The Division is also actively engaged in Canada's support for the International Criminal Court.

The Oceans and Environmental Law Division (which includes the Oceans Law Section and the Environmental Law Section) is concerned with the development and maintenance of a rules-based international system to manage our oceans and environment. The Division is involved in the development and implementation of numerous bilateral, regional and multilateral agreements and handles a diverse array of issues, such as, international and bilateral fisheries questions; Arctic sovereignty matters; transboundary pollution and water resources questions; biodiversity, desertification and bio-safety issues; and energy issues.

Justice Legal Services, headed by a General Counsel, provides legal services to Foreign Affairs Canada on domestic legal issues related to the department's mandate and corporate activities. Justice Legal Services also has responsibility for Canadian domestic law questions including: property/commercial law, the Hague Convention on the Civil Aspects of International Child Abduction, access to information and privacy, passport issues and other legal matters which have a primarily domestic law context.

In December 2002, with the establishment of International Trade Canada as a separate department, the Trade Law Bureau ceased to be under the direct mandate of the Legal Adviser. The Trade Law Bureau advises the Government of Canada on its rights and obligations under international trade law; provides legal advice on the negotiation and implementation of multilateral, regional and bilateral trade and investment agreements; and represents Canada in dispute settlement proceedings under the NAFTA and the WTO. The Trade Law Bureau is currently co-located with the Legal Branch and maintains an information reporting relationship with the Legal Adviser.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Branch is one of eight Branches of Foreign Affairs Canada. All of the Branches report to the Minister through the Deputy Minister of Foreign Affairs.

The Branch is closely engaged in encouraging a consistent and coherent Canadian approach to international law. The Legal Affairs Bureau provides legal advice to policy divisions, as well as to other government departments, whenever a file contains issues related to international law and regarding the negotiation and implementation of international agreements. The lawyers in the Legal Branch work closely with their colleagues in other Branches of Foreign Affairs Canada and in other government departments in order to ensure that Canadian foreign policy is consistent with Canada's obligations under international law.

6. What are the main contacts of the OLA within Government?

The Legal Affairs Bureau works with various divisions throughout the federal government, including International Trade Canada, the Department of Justice, the Department of National Defence, the Department of Fisheries and Oceans, Natural Resources Canada, Canadian Heritage, Canadian International Development Agency, Citizenship and Immigration Canada, Environment Canada, Health Canada, Transport Canada, Canada Border Services Agency, Canadian Nuclear Safety Commission, Canadian Space Agency and the Privy Council Office.

In addition, the Legal Affairs Bureau consults with the relative departments of the provincial and territorial governments regarding matters that fall within their jurisdiction or may have an impact upon them.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

The Legal Branch maintains a strong relationship with lawyers in private practice, academics and legal institutions. Several members of the Legal Branch's staff, including the Legal Adviser, have taught courses at the University of Ottawa and the Norman Paterson School of International Affairs at Carleton University. In addition, the Legal Affairs Bureau has a visiting academic on staff who retains that position for one to two years. Many of the Branch's Legal Officers are members of outside institutions and organizations such as the Canadian Council on International Law.

8. Please provide a brief bibliography on the OLA, if available

J.A. Beesley, *The Sixties to the Seventies: The Perspective of the Legal Adviser* in R. St. John Macdonald ed., *Canadian Perspectives on International Law and Organization*, Toronto 1974.

M. Cadieux & M. Cohen, *The Position and Function of Legal Advisers to Foreign Ministries*, background paper for Conference on Legal Advisors and Foreign Affairs, Summer 1963.

A.E. Gottlieb, *Legal Advisers and Foreign Affairs* >A comment=@ (1965) 16 *University of Toronto Law Journal* 158.

ISRAEL

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser of Israel's Ministry of Foreign Affairs has the formal rank of Deputy Director General. The Legal Adviser heads the Office of the Legal Adviser, a unique division within the Ministry and acts as an adviser to the Minister and Director-General on issues of international law. The Legal Adviser is a civil servant and is generally appointed by internal tender from among the employees of the Ministry. However, there have been a number of examples of Legal Advisers appointed from outside the staff of the Ministry.

2. What are the principal functions of the OLA?

The Office offers legal advice and services to the senior staff, the various departments and missions of the Ministry in regard to issues arising in the conduct of the foreign affairs of the State of Israel. A central objective is to ensure compliance with Israel's international legal obligations and relevant domestic legislation relating to foreign affairs. The role of the Office includes both offering legal advice and taking an active part in developing and implementing policy and positions of the Ministry and the Government. Staff lawyers frequently represent Israel in international conferences, negotiations and bilateral and multilateral activities.

The OLA is also responsible for legal advice in respect of the administrative aspects of the work of the Ministry, as well as litigation, both local and international.

3. Please give a brief description of staff employed by the OLA, including overseas staff

Currently there are approximately 15 attorneys, four articled clerks (recent law school graduates fulfilling Israeli article legislation obligations) and support staff in the OLA. Additionally, one attorney is assigned to Israel's Permanent Mission to the United Nations in New York and another to Israel's Embassy at The Hague. All attorneys are licensed to practice law in Israel and some members of the OLA are licensed to foreign jurisdictions. Approximately half of the attorneys in the department are part of Israel's foreign service who serve tours in the Office. Those attorneys often rotate between legal positions within the OLA and diplomatic postings in Israel and abroad as members of Israel's foreign service. Additional lawyers are generally recruited from outside the government and are not formally part of Israel's foreign service, though they belong to the permanent staff of the OLA. In addition to its full-time staff, the Office regularly consults with outside experts from both academia and private practice in Israel and abroad.

4. Briefly describe the organization and structure of the OLA

The Legal Adviser supervises the activities of the Deputy Legal Adviser and four additional departments. Those include the Departments of International Law, Diplomatic Law, Treaty Law and General Law. The majority of the attorneys receive significant responsibility over areas of law, often corresponding to a "client" department within the Ministry.

5. What is the OLA's place within the Ministry of Foreign Affairs?

As detailed above, the OLA is a unique division within the Ministry. Its attorneys interact regularly with the various departments of the Ministry headquarters and diplomats serving at missions around the world.

6. What are the main contacts of the OLA within Government?

The Legal Advisers is professionally guided by the Attorney General. The OLA regularly cooperates with various other government ministries including Justice, Defense, Finance,

Interior, Environment and others. OLA attorneys regularly represent the department and the Ministry on intergovernmental committees on legal issues. The Legal Adviser also has contacts throughout the branches of the government, including the judiciary, the Knesset - Israel's Parliament and Israel's security establishments, including especially close contacts with the International Law branch of the Israel Defense Forces' Judge Advocate General.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

There are regular ties between the OLA and lawyers in practice, especially in regard to aspects of diplomatic law and international public law which may have relevance for the practice of law in Israel. Additionally, attorneys in the OLA have taught courses and lectured in Israeli universities on aspects of international law. At the same time, the OLA regularly consults with academics on issues which may arise within the expertise of those academics.

JAPAN

1. What is the title, rank and position of the Legal Adviser?

The post of the legal advisor is not envisaged in the structure of the Ministry of Foreign Affairs (hereinafter referred to as "MOFA") as such. All international legal matters, however, are dealt with by MOFA's International Legal Affairs Bureau headed by the Director General. (The Ministry of Foreign Affairs conducted its organizational reform on August 1st, 2004 and the Treaties Bureau was reorganized into the International Legal Affairs Bureau (hereinafter referred to as "ILAB").)

2. What are the principal functions of the OLA?

The principal functions of the ILAB are policy making on international law, the conclusion of international agreements, the interpretation and implementation of treaties and customary international law, and the matters concerning relevant international fora, including the ICJ, the PCA, the ILC and the AALCO.

At the divisional level, the Legal Affairs Division dealing with the customary international law was reorganized into the International Legal Affairs Division in charge of overall coordination with in the ILAB and strategic planning on various issues related to international law, including examination of legal aspects of various important diplomatic issues and policy – planning on the future development of international law.

In order to integrate knowledge on each area, the multilateral/bilateral-based divisional system, in which the Treaties Division had been responsible for bilateral treaties and the International Agreements Division for multilateral, was transformed into the specialty-field based system with the latter division reorganized into the Economic and Social Treaties Division. *And on August 1st, this Division was divided into two ; Economic Treaties Division and Social Treaties Division.*

Furthermore, Counsel for International Legal Affairs was established in order to participate in the general international law making process proactively and to improve in-house legal service.

Counsel for Treaties Negotiation was established in order to participate in treaty negotiations proactively and to strengthen the ministry's capability to conclude treaties.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

Currently, there are more than 70 staff working at the ILAB. Except for such missions as the permanent mission to the United Nations, there are few legal advisers in the Japanese missions overseas. However, all Embassies and Consulates deal with consular and other legal affairs on a daily basis, and consult with the ILAB if necessary.

4. Briefly describe the organization and structure of the OLA.

See the reply to question 1. and 2.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The ILAB is one of eleven Bureaus within the MOFA. (See also the reply to question 1. and 2.)

6. What are the main contacts of the OLA within Government?

The ILAB is the principal organization within the Government for issues on international law, including the customary international law, treaties and other international agreements. Therefore, the ILAB advises and consults with other Ministries when they have to deal with these issues.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The ILAB frequently contacts with legal experts including lawyers, academics and legal institution staff both in Japan and overseas. In addition, the ILAB employs some private lawyers as government officials for a fixed period of time.

8. Please provide a brief bibliography on the OLA, if available.

See the following website addresses:

<http://www.mofa.go.jp/about/hq/chart.html>

<http://www.mofa.go.jp/about/hq/org.html>

(別添)

Reorganization of the Ministry of Foreign Affairs

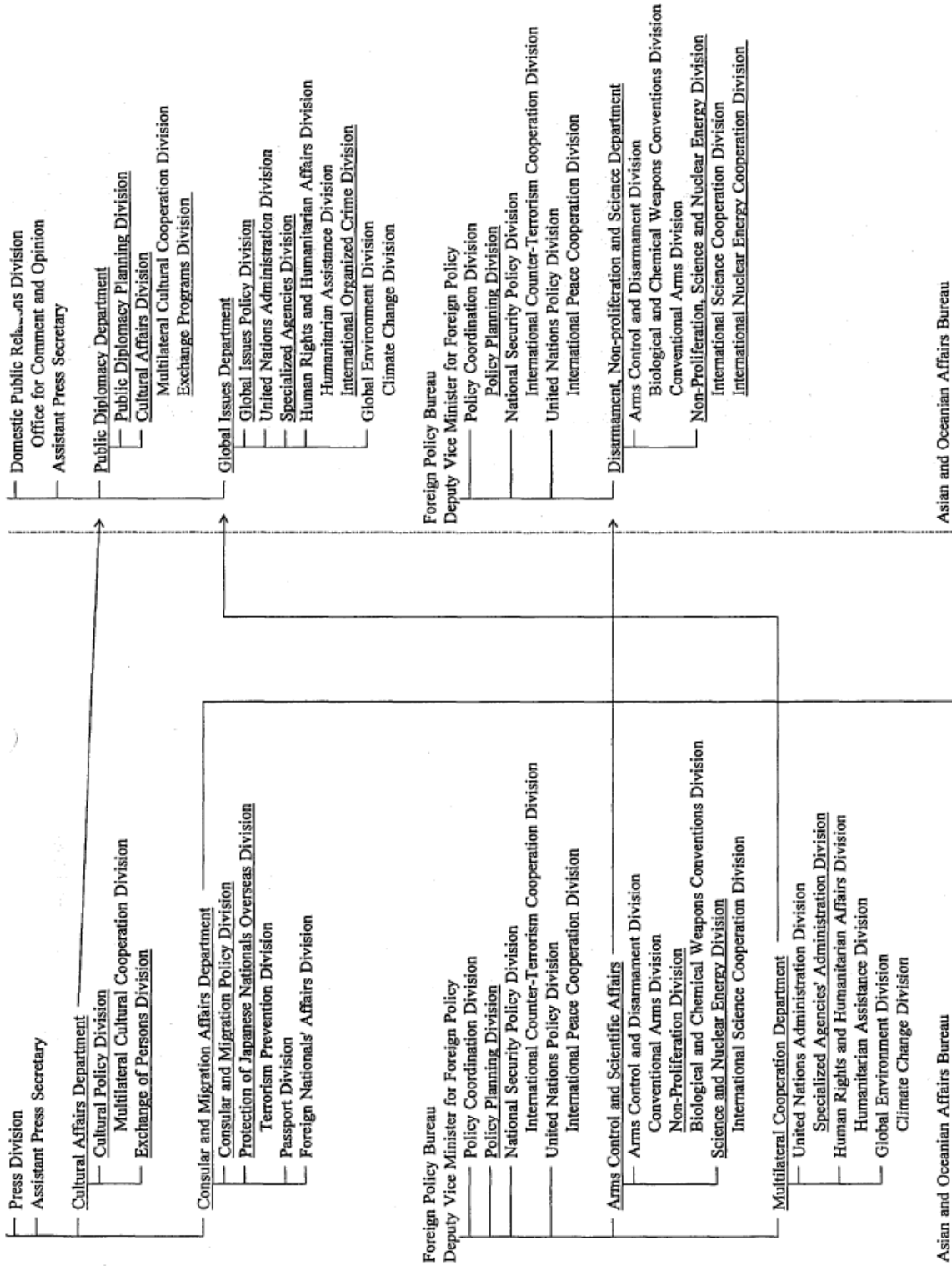
New Organization

- Minister for Foreign Affairs
- Senior Vice-Ministers for Foreign Affairs (2)
- Parliamentary Secretaries for Foreign Affairs (3)
- Vice-Minister for Foreign Affairs
- Deputy Ministers for Foreign Affairs (2)

Old Organization

- Minister for Foreign Affairs
- Senior Vice-Ministers for Foreign Affairs (2)
- Parliamentary Secretaries for Foreign Affairs (3)
- Vice-Minister for Foreign Affairs
- Deputy Ministers for Foreign Affairs (2)

Chief of Protocol	Deputy Vice-Minister
Director-General for Inspection	Director-General for Inspection
Press Secretary/Director-General for Press and Public Relations	Chief of Protocol
Assistant Vice Minister	Press Secretary/Director-General for Press and Public Relations
Deputy Director-General (14)	Assistant Vice Minister
Deputy Assistant Vice Minister (Parliamentary Affairs)	Deputy Director-General (14)
Deputy Director-General (10)	Deputy Assistant Vice Minister (Parliamentary Affairs)
Director for Policy Evaluation and Administrative Review	Deputy Director-General (10)
Special Coordinator	Deputy Assistant Vice Minister (Crisis Management)
Management and Coordination Division	Director for Policy Evaluation and Administrative Review
Diplomatic Record Declassification Division	Special Coordinator
Inspection Division	Management and Coordination Division
Information Disclosure Division	Diplomatic Record Declassification Review Division
Diplomatic Record Office	Inspection Division
Security Division	Information Disclosure Division
Crisis Management Coordination Division	Diplomatic Record Office
Library of the Ministry of Foreign Affairs	Security Division
Personnel Division	Crisis Management Coordination Division
Information and Communications Division	Library of the Ministry of Foreign Affairs
Financial Affairs Division	Personnel Division
Health and Welfare Division	Information and Communications Division
Overseas Establishments Division	Financial Affairs Division
Senior Deputy Chief of Protocol	Health and Welfare Division
Foreign Visit Division	Overseas Establishments Division
Overseas Public Relations Division	Senior Deputy Chief of Protocol
Domestic Public Relations Division	Foreign Visit Division
Office for Comment and Opinion	Overseas Public Relations Division
	Domestic Public Relations Division
	Office for Comment and Opinion



Regional Policy Division
 Former Overseas Territories Service Division
 Northeast Asia Division
 Japan-Korea Economic Affairs Division
 China and Mongolia Division
 First Southeast Asia Division
 Second Southeast Asia Division
 Southwest Asia Division
 Oceania Division

North American Affairs Bureau
 First North America Division
 Second North America Division
 Japan-U.S. Security Treaty Division
 Status of U.S. Forces Agreement Division

Latin American and Caribbean Affairs Bureau
 Mexico and Central America Division
 South America and Caribbean Division
 Caribbean Division

European Affairs Bureau
 European Policy Division
 Western Europe Division
 Central and South Eastern Europe Division
 Russian Division
 Russian Assistance Division
 Central Asia and Caucasus Division

Middle Eastern and African Affairs Bureau
 First Middle East Division
 Second Middle East Division
 Director-General for Sub-Saharan African Affairs
 First Africa Division
 Second Africa Division

Economic Affairs Bureau
 Economic Policy Division
 Research Division
 OECD Division
 Office of the World Exposition, Aichi Japan
 International Trade Division
 Services Trade Division
 WTO Dispute Settlement Division

Regional Policy Division
 Former Overseas Territories Service Division
 Northeast Asia Division
 Japan-Korea Economic Affairs Division
 China and Mongolia Division
 First Southeast Asia Division
 Second Southeast Asia Division
 Southwest Asia Division
 Oceania Division

North American Affairs Bureau
 First North America Division
 Second North America Division
 Japan-U.S. Cooperation Promotion Division
 Japan-U.S. Security Treaty Division
 Status of U.S. Forces Agreement Division

Latin American and Caribbean Affairs Bureau
 First Latin America and Caribbean Division
 Second Latin America and Caribbean Division
 Caribbean Division

European Affairs Bureau
 First West Europe Division
 European International Organizations Division
 Second West Europe Division
 Central and South Eastern Europe Division
 Russian Division
 Russian Assistance Division
 New Independent States Division

Middle Eastern and African Affairs Bureau
 First Middle East Division
 Second Middle East Division
 Director-General for Sub-Saharan African Affairs
 First Africa Division
 Second Africa Division

Economic Affairs Bureau
 Deputy Director-General for General Affairs
 FTA/EPA Division
 First International Economic Affairs Division
 Ocean Division
 Asia-Europe Cooperation Division
 Second International Economic Affairs Division
 Fishery Division



MEXICO

1. What are the title, rank and position of the Legal Advisor?

The title is Legal Advisor of the Ministry of Foreign Affairs of Mexico; currently, the post is held by Mr. Arturo A. Dager-Gómez, who has the rank of Ambassador within the Mexican Foreign Service.

2. What are the principal functions of the OLA?

According to article 11 of the Internal Regulations of the Ministry of Foreign Affairs and to the institutional practice followed within the Ministry since 1967, the principal functions of the OLA are: (1) participation in the international fora on public and private international law; (2) negotiation and conclusion of treaties; (3) submission of treaties before the Senate for approval; (4) national implementation of international law; (5) implementation and interpretation, at the national level, of the law of international organisations of which Mexico is a member; (6) representation of Mexico before international tribunals; (7) the OLA may also be involved in domestic trials concerning international law; (8) rendering legal advice in cases brought against Mexican Missions before foreign tribunals; (9) rendering legal advice for the defence of Mexican nationals abroad; (10) rendering legal opinion on issues involving international law, such as the application of treaties, diplomatic and consular privileges and immunities, inter alia.

3. Please give a brief description of staff employed by the OLA, including overseas staff

The Office is currently comprised of about 15 lawyers, in addition to the LA and the Deputy LA. Most of the senior lawyers of the Office belong to the Mexican Foreign Service, the rest are career civil servants.

Regarding the overseas staff, the OLA coordinates with about 10 lawyers posted in Mexican Embassies and Missions where intense legal work is required, like the Permanent Mission to the United Nations in New York, the Permanent Mission to the Organisation of American States in Washington, the Permanent Missions to International Organisations in Geneva and Vienna and the Embassies of Mexico to the European Union (Belgium and Luxemburg), the United States, the Netherlands, Italy and Costa Rica. However, it is important to underline that all of these officials depend on the Head of the Mission and not on the LA.

4. Briefly describe the organisation and structure of the OLA

Head of Office is the LA, Mr. Arturo A. Dager-Gómez, followed by the Deputy LA, Mr. Ulises Canchola. The OLA is divided into three thematic areas: (a) the international law area, which counts three Divisions, i.e. the Public International Law Division, the Division of the Law of the Sea and Environmental International Law and the Division of Human Rights and International Humanitarian Law; (b) the treaties section, composed of two Divisions; and (c) the international litigation area, comprised of two Divisions. Each Division includes a Director, an Under-Director, Chiefs of Department and analysts.

Concerning private international law, the OLA is advised by a Committee of Legal Experts that meets every month in the OLA's headquarters. This Committee is composed of attorneys at law and law professors from the principle universities of Mexico.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The OLA was created in 1967 as part of the Office of the Minister of Foreign Affairs. After the last reform to the Internal Regulations of the Ministry (August 2004), OLA is now under the coordination of a superior Legal Unity, which harmonizes the work of the different legal entities within the Ministry, such as the OLA and the Directorate General of Legal Affairs.

Article 11, paragraph 1 of the Internal Regulations of the Ministry provides that one of the functions of the OLA is “to advise the Minister on issues involving international public and private law, as well as foreign law”.

The OLA also maintains very close contacts with the Offices of the Under-Secretaries in order to advise them on all legal matters required within their thematic or geographical scope.

6. What are the main contacts of the OLA within the Government?

The OLA cooperates with all ministries and agencies of the federal administration if so required. The main contacts are the international and legal divisions of the different ministries and agencies.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

Occasionally, academic institutions are hired in order to research in specific subject areas. OLA is frequently requested to give conferences and speeches in academic institutions dealing with international law. Private lawyers occasionally request information or opinions from OLA. Close relation is maintained with the Federal Judicial Council.

8. Please provide a brief bibliography on the OLA

A paper, prepared by OLA, on its role and nature is attached (Spanish version only).

UNITED STATES OF AMERICA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser of the U.S. Department of State has the formal rank of an Assistant Secretary of State. The Legal Adviser heads the Office of the Legal Adviser, a separate operating bureau of the Department, and typically functions as a close adviser to the Secretary of State as well as to the U.S. Government on issues of international law. The Legal Adviser is a Presidential appointee subject to confirmation by the U.S. Senate. The position of Legal Adviser of the Department of State was first established by the U.S. Congress in a statute adopted in 1931, although predecessor positions (Solicitor and Examiner of Claims) can be traced back to the mid-19th century.

2. What are the principal functions of the OLA?

The Office provides legal advice and services to the senior leadership of the Department of State and all its operating components on issues arising in the conduct of foreign affairs. The objective is to ensure compliance with applicable domestic law related to the foreign affairs function as well as the international legal obligations of the United States. Much of the work is advisory, but members of the Office are often actively involved in the formulation as well as implementation of policies and programs. Department lawyers frequently serve on or even lead delegations to international negotiations and conferences and represent the United States before international courts and tribunals.

The Office also provides advice within the U.S. government on questions of public international law. Its members have special expertise and responsibility for the negotiation, interpretation and ratification of treaties and other international agreements. The Office represents the United States, as agent, before international courts and tribunals (including the ICJ and the Iran-US Claims Tribunal). As in many other governments, it endeavors to ensure consistency in positions taken on issues of international law, especially in the negotiation of treaties and before international courts and tribunals. Members of the Office prepare the annual Digest of U.S. Practice in International Law.

3. Please give a brief description of staff employed by the OLA, including overseas staff

The Office of the Legal Adviser currently comprises some 250 fulltime employees, including 165 attorneys formally admitted to the practice of law, all of who have Juris Doctor (or equivalent) degrees and many of who have advanced (specialized) degrees in international law. Other members include highly qualified paralegals, treaty analysts, information technology specialists, and budget, administrative, and other support personnel.

State Department lawyers are typically recruited from outside the government or from other government agencies and serve as members of the Civil Service (not part of the foreign or diplomatic service). The selection process for positions within the Office is intensely competitive. On occasion, appropriately qualified members of the Foreign Service may serve tours in the Office and members of the Office may leave to join the Foreign Service or other parts of the international affairs community.

All attorneys are based in Washington, with only a few exceptions. Two attorneys are currently assigned to the U.S. Mission to the United Nations (New York), two to the U.S. Mission to International Organizations (Geneva), and two to the U.S. Embassy at The Hague. Recently, attorneys have been temporarily assigned to the U.S. Embassy in Baghdad. New attorneys typically rotate assignments within the Office after 2 years, and periodically thereafter, to broaden their experience and take on new challenges. Outside rotational assignments can include the National Security Council and the U.S. Congress.

In addition to its full-time attorneys, the Office is able to draw on the services of outside experts (for example, professors of law or practicing specialists) in various international legal fields as consultants, when needed.

4. Briefly describe the organization and structure of the OLA

The Legal Adviser reports directly to the Secretary of State. Four Deputy Legal Advisers supervise some 22 Assistant Legal Advisers, who are experienced senior attorneys charged with managing one of the regional or functional offices described below (which vary in size from two to twenty staff attorneys). An Executive Director is responsible for overall management, budget, administrative, personnel, and information resources support.

The Office is organized to provide direct legal support to the Department of State's various operating bureaus. This structure is intended to ensure the most timely and effective advice and to foster close attorney-client relationships.

- Thus, each of the Department's regional bureaus (Africa, East Asia and Pacific, Europe, Near East, South Asia, Western Hemisphere) has a counterpart Assistant Legal Adviser and staff to assist in dealing with the broad range of issues arising in a regional or bilateral context.
- Dedicated components headed by Assistant Legal Advisers also support the various functional bureaus with worldwide responsibilities (for example, Arms Control and Verification, Non-proliferation, Consular Affairs, Economic and Business Affairs, Human Rights and Refugees, Law Enforcement and Intelligence, Oceans, International Environmental and Scientific Affairs, Political-Military Affairs, Public Diplomacy, and United Nations Affairs).
- Several components of the Office focus on issues of general application to the Department's foreign affairs function, such as Diplomatic Law and Litigation (privileges and immunities, recognition, status of international organizations, litigation in U.S. and foreign courts); Private International Law (harmonization and codification of private law in such areas as international business transactions, arbitration, trusts, international child abduction and inter-country adoption, international negotiable instruments and the liability of operators of transport terminals); and Treaty Affairs (treaty law and procedure, including drafting, negotiating, applying, interpreting and publishing treaties and other international agreements of the United States; and constitutional questions including the relative powers of the President and the Congress regarding treaties and executive agreements).
- Over the past several years, a growing proportion of the Office's resources have been devoted to legal issues related to the overall management and operation of the Department as a government agency, rather than to international law. These practice areas now include Legislation and General Management (administrative and budget, appropriations, Freedom of Information); Buildings and Acquisitions (federal contracts, acquisition and development of real property abroad); Employment Law (human resources and labour relations, employee grievances); and Ethics (including professional responsibility issues, financial disclosure reporting program).
- The largest single component, finally, is the Office of International Claims and Investment Disputes, which was initially established to handle claims before the Iran-U.S. Claims Tribunal and has since expanded to encompass virtually all claims under international law by the U.S. and its nationals against foreign governments, and by foreign nationals and governments against the U.S. Government. In addition to handling claims relating to expropriation and other property and investment disputes, and issues of state responsibility for denial of justice, wrongful death, and personal injury, this component handles claims before the UN Compensation Commission as well as the arbitration of investment claims under NAFTA and other agreements.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Office of the Legal Adviser is one of some 23 separate operating bureaus of the Department.

6. What are the main contacts of the OLA within Government?

The Office deals on a daily basis with a broad range of federal government departments, offices and agencies involved in the foreign affairs, national security, and law enforcement communities, including most frequently the Counsel to the President, the Legal Adviser to the National Security Council, the Department of Justice and the General Counsels of the Departments of Defense (including the various military services), Homeland Security, Commerce and the Treasury, the Special Trade Representative, and the Agency for International Development.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions

Members of the Office are in frequent contact with private practitioners on matters pertaining to the Department's work, including litigation, arbitration, contracts, and other regulatory issues. Indeed, many attorneys have come to the Office from private practice and many, upon leaving, go to law firms or corporate law offices.

The Office has traditionally had strong links to the academic community in the field of international law. A number of professors serve as consultants; at most times, a highly qualified academic holds a fulltime appointment within the Office as Counselor on International Law. A number of attorneys have left the Office and government service to pursue teaching careers in American law schools.

Practitioners and academics serve on the Secretary of State's Advisory Committees on Public and Private International Law, which function as consultative bodies on legal issues of current interest and debate under the guidance of the Legal Adviser.

Members of the Office are often active in the various professional societies concerned with international law, including in particular the American Society of International Law, the American Bar Association's Section of International Law and Practice, the American Branch of the International Bar Association, and the Inter-American Bar Association, as well as state and local bar associations, committees, and other groups. Lawyers are permitted to participate in professional and academic conferences and symposia in the legal and foreign policy communities, and to teach and publish in the field of international law, subject to certain ethical restrictions. At any given time, a number of attorneys teach in Washington-area law schools on a part-time basis. Lawyers are encouraged to provide pro bono legal services to needy members of the Washington, D.C. community.

8. Please provide a brief bibliography on the OLA, if possible

J. Mathews, *The Conduct of American Foreign Relations* 46-47 (1922)

Woolsey, "The Legal Adviser of the Department of State," 26 *Am. J. Int'l L.* 124 (1932)

Richard B. Bilder, "The Office of the Legal Adviser: The State Department Lawyer and Foreign Affairs," 56 *Am. J. Int'l L.* 633 (1962)

H.C.L. Merilatt, ed., *LEGAL ADVISERS AND FOREIGN AFFAIRS* (Am. Soc. Int'l L. 1966)

"The Role of the Legal Adviser of the Department of State. A Report of the Joint Committee Established by the American Society of International Law and the American Branch of the International Law Association (July 1990)," *reprinted in* 85 *Am. J. Int'l L.* 358 (1991)

Richard B. Bilder, "International Law and United States Foreign Policy: Some Reflections on the ASIL/ILA Report on the Role of the Legal Adviser," 1 *Transnat'l L. & Contemp. Probs.* 201 (1991)

Michael K. Young, "Government Lawyering: The Role of the Attorney-Adviser in the U.S. Department of State: Institutional Arrangements and Structural Imperatives," 61 *Law & Contemp. Probs.* 133 (1998)

APPENDIX/ANNEXE**QUESTIONNAIRE ON THE ORGANISATION AND FUNCTIONS OF THE OFFICE OF THE
LEGAL ADVISER (OLA) OF THE MINISTRY OF FOREIGN AFFAIRS**

1. What is the title, rank and position of the Legal Adviser?
2. What are the principal functions of the OLA?
3. Please give a brief description of staff employed by the OLA, including overseas staff.
4. Briefly describe the organisation and structure of the OLA.
5. What is the OLA's place within the Ministry of Foreign Affairs?
6. What are the main contacts of the OLA within Government?
7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.
8. Please provide a brief bibliography on the OLA, if available.