

Strasbourg, 05/03/08

CAHDI (2008) OJ 1 Annotated

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

**35th meeting
Strasbourg, 6-7 March 2007**

Room 7 – 9h30

AGENDA

A. INTRODUCTION

1. Opening of the meeting by the Chair, Sir Michael Wood
2. Adoption of the agenda **CAHDI (2008) OJ 1 + annotated**
3. Approval of the report of the 34th meeting **CAHDI (2007) 26 prov**
4. Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua **CAHDI (2008) Inf 1**
The Secretariat will provide information on developments within the Council of Europe since the CAHDI's 34th meeting, in particular the latest developments concerning the Council of Europe Treaties Series.

B. ONGOING ACTIVITIES OF THE CAHDI

5. Decisions by the Committee of Ministers concerning the CAHDI and requests for the CAHDI's opinion **CAHDI (2008) 4 rev**
The CAHDI is invited to take note of relevant decisions and consider relevant requests (CAHDI (2008) 4 rev). In particular:
 - Draft report of the CAHDI on the consequences of the so-called “disconnection clause” in international law in general and for CoE conventions **CAHDI (2008) 1 & Add, 2, 3**
The CAHDI is invited to consider the terms of reference given to it by the Committee of Ministers to examine the consequences of the so-called “disconnection clause”, as laid out in selected CoE conventions and the draft report submitted by the Chair and Vice-Chair (CAHDI (2008) 1) which is intended to serve as a basis for the Committee's discussions. Delegations' comments are reproduced in document CAHDI (2008) 1 Add. Background materials compiled by the Secretariat appear in CAHDI (2008) 2, while the EU submission appears in CAHDI (2008) 3.
 - Draft opinion of the CAHDI on Parliamentary Assembly Recommendation 1824 (2008) **CAHDI (2008) 4 rev Add**
On 6 January 2008, the Committee of Ministers transmitted Recommendation 1824 (2008) of the Parliamentary Assembly of the Council of Europe “United Nations Security Council and European Union blacklists” – to the CAHDI for information and possible comments (CAHDI (2008) 4 rev, item 2.a). Delegations are called upon to consider the draft opinion on the above-mentioned Recommendation (CAHDI (2008) 4 rev Add).

6. Programme of activities of the CAHDI for 2008-2009 **CAHDI (2007) 1 Add**
The CAHDI is invited to consider its programme of activities for 2008-2009 in the light of the Criteria for launching, discontinuing and evaluating Council of Europe projects, established by the Committee of Ministers. In particular, delegations are invited to submit any proposals for specific activities to be conducted by the Committee.
7. State immunities:
 - a. State practice **CAHDI (2008) Inf 2**
 - b. UN Convention on Jurisdictional Immunities **CAHDI (2008) Inf 3**
Delegations are invited to present orally developments concerning State practice regarding State Immunities (CAHDI (2008) Inf 2). Since the last meeting, no updates or new contributions have been submitted by delegations. Likewise, no new signatures or ratifications of UN or Council of Europe conventions have been deposited (CAHDI (2008) Inf 3). Delegations are encouraged to update their contributions on a regular basis and those which have not yet done so are invited to submit their contributions at their earliest convenience.
8. Organisation and functions of the Office of the Legal Adviser (OLA) of the Ministry for Foreign Affairs
 - a. Situation in member and observer states **CAHDI (2008) Inf 4**
Delegations are invited to present national developments. Since the 34th meeting, the delegations of Cyprus, Hungary, Luxembourg, Norway and Romania have submitted their new contributions or updates. Other delegations are invited to update their contributions to the database on a regular basis, and those which have not yet done so are invited to submit their contributions at their earliest convenience.
 - b. The role of the OLA in national implementation of international law **CAHDI (2006) 27, CAHDI (2007) 13 & 22**
Delegations are invited to suggest specific topics that could be usefully discussed on a comparative basis. Delegations are invited to submit a short note in advance, in order to enable other participants to prepare for the discussion on this item.
9. National implementation measures of UN sanctions and respect for human rights **CAHDI (2008) Inf 5, Inf 6 & CAHDI (2008) 13**
Delegations are invited to update their contributions to the restricted database on National implementation measures of UN sanctions and respect for human rights on a regular basis and those delegations which have not yet done so are called upon to submit their contributions at their earliest convenience. Since the last meeting, the delegation of "the former Yugoslav Republic of Macedonia" as well as the European Commission have submitted their contributions. At the 34th meeting of the CAHDI, the Chair suggested reverting – at the 35th meeting – to the decision on whether or not the database should be made public, given that this issue required careful consideration and that court cases were pending.
10. Cases before the ECHR involving issues of public international law **CAHDI (2008) 11 & 12**
All the members of the Committee are encouraged to report on any judgments or decisions, pending cases or relevant ongoing events. To this end, short papers or oral presentations by delegations would be appreciated. Since the 34th meeting, the delegations of Romania and Slovenia have submitted their contributions.
11. Peaceful settlement of disputes:
 - a. Compulsory jurisdiction of the International Court of Justice (ICJ) (Article 36 (2)): Preliminary draft Recommendation of the Committee of Ministers to member states on the acceptance of the jurisdiction of the ICJ **CAHDI (2008) 7**
CAHDI (2008) 8
The CAHDI undertook consideration of the draft Recommendation submitted by the Chair and Vice-Chair at its 34th meeting. Delegations are now called upon consider a draft revised by the Chair and Vice-Chair (CAHDI (2008) 8) with a view to approval.
 - b. Overlapping jurisdiction of international tribunals
 - c. Lists of arbitrators and conciliators nominated by states: Preliminary draft Recommendation of the Committee of Ministers to member states on the nomination of international arbitrators and conciliators **CAHDI (2007) 20 rev & CAHDI (2008) 6**
The CAHDI agreed to pursue consideration of this matter in the light of comments from delegations, which are reproduced in document CAHDI (2008) 6. The Chair and Vice-Chair of the CAHDI have circulated a revised draft Recommendation which takes account of the discussion and comments received.
12. Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties:

a. List of outstanding reservations and declarations to international treaties

CAHDI (2008) 5 rev, Add & Add 2

Delegations are invited to consider outstanding reservations and declarations in CAHDI (2008) 5 & Add. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org>. A table of objections to these reservations and declarations is circulated as an Addendum to this document. The delegation of Australia also submitted its contribution (see Addendum 2).

b. Consideration of reservations and declarations to international treaties applicable to the fight against terrorism **CAHDI (2008) 10**

At the Committee of Ministers' request, the CAHDI adopted a list of possibly problematic reservations to anti-terrorist treaties, at its 28th meeting (as document CAHDI (2004) 22). The CAHDI subsequently revised the list at the 29th and 30th meetings (the last version available being CAHDI (2006) 7). Since then, the delegation of Latvia submitted a contribution and a draft revised version is now submitted as CAHDI (2008) 10. Delegations are invited to consider the list and provide any additional information.

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

13. Exchange of views with Mr Nicolas Michel, UN Under-Secretary-General for Legal Affairs and UN Legal Counsel

14. Consideration of current issues of international humanitarian law

15. Developments concerning the International Criminal Court (ICC): statement by Mrs Herta Däubler-Gmelin, Chair of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe and Rapporteur on the ICC.

AS/Jur (2007) 34

This document will be distributed in the meeting room.

16. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994) and the Special Tribunal for Lebanon

17. Follow-up to the outcome document of the 2005 UN World Summit – Advancing the international rule of law **CAHDI (2006) 11**

Delegations are invited to provide further comments on document CAHDI (2006) 11. They are also invited to present relevant information on national or international events aimed at advancing the international rule of law.

18. Fight against terrorism - Information about work undertaken in the Council of Europe and other international bodies **CAHDI (2008) Inf 7**

The Secretariat will be providing information concerning developments in the CoE setting. Delegations and observers are invited to provide any additional information.

D. OTHER

19. Preparation of the 36th meeting of the CAHDI (London, 7-8 October 2008) and information concerning the International Conference "International Courts and Tribunals - The Challenges Ahead" (London, 6-7 October 2008)

The next (36th) meeting of CAHDI will be held in London, 7-8 October 2008. The British delegation will provide additional information concerning the preparations and arrangements for the meeting, while the Secretariat will be providing information concerning the state of preparations of the Conference. An announcement has already been issued to international courts and tribunals and to delegations.

20. Other business:

- Status of ratification of Protocol 14 to the ECHR

CAHDI (2008) Inf 8

AS/Jur (2007) 09 & AS/Jur (2007) 31

The AS/Jur documents will be distributed in the meeting room.

- Agreed arrangements between Spain and the United Kingdom relating to Gibraltar authorities in the context of mixed agreements and certain international treaties (2007)

21. Adoption of the abridged report of the 35th meeting

TENTATIVE ORDER OF BUSINESS

	6 March 2008	7 March 2008
09h30	1 - 4, 15, 5	12, 14, 16-21
12h45	<i>Lunch Break</i>	
14h30	13, 5 (if necessary), 6-11	Reserved
18h00	End of session	
18h30	<i>Reception hosted by the Permanent Representation of the United Kingdom</i>	