

Strasbourg, 07/10/08

CAHDI (2008) OJ 2 Annotated

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

**36th meeting
London, 7-8 October 2008**

Lancaster House – 14h30

DRAFT ANNOTATED AGENDA

A. INTRODUCTION

1. Opening of the meeting by the Chair, Sir Michael Wood
2. Adoption of the agenda **CAHDI (2008) OJ 2 + annotated**
3. Approval of the report of the 35th meeting **CAHDI (2008) 15 prov**
4. Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua **CAHDI (2008) Inf 9**
The Secretariat will provide information on developments within the Council of Europe since the CAHDI's 35th meeting, in particular the latest developments concerning the Council of Europe Treaty 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) 17 rev 2**
CAHDI (2008) Inf 10

The CAHDI is invited to take note of relevant decisions and consider relevant requests (CAHDI (2008) 17 rev 2), in particular the Committee is invited to take note of the study on the efficiency and effectiveness of committees (CAHDI (2008) Inf 10).

- a. "Disconnection clause": adoption of the draft report of the CAHDI **CAHDI (2008) 1 rev, 2, 3**

Following the CAHDI's consideration at its 35th meeting of the draft report on the "consequences of the so-called disconnection clause", delegations are invited to consider the revised draft report (CAHDI (2008) 1 rev.), as prepared by the Chair and Vice-Chair, with a view to adopting it during the CAHDI's 36th meeting. The Secretariat circulated the draft report to CAHDI members on 4 July 2008 for comments and suggestions with a deadline of 19 September 2008. No comments have been submitted to the Secretariat. Background materials compiled by the Secretariat appear in CAHDI (2008) 2, while the EU submission appears in CAHDI (2008) 3.

- b. Draft opinion of the CAHDI on Parliamentary Assembly Recommendation 1842 (2008)

CAHDI (2008) 21

On 9 July 2008 the Deputies of the Committee of Ministers transmitted Recommendation 1842 (2008) of the Parliamentary Assembly of the Council of Europe "Activities of the International Committee of the Red Cross (ICRC)" to the CAHDI for information and possible comments (CAHDI (2008) 17 rev 2, item 1.a.). Delegations are called upon to consider the draft opinion on this Recommendation (CAHDI (2008) 21).

6. State immunities:
 - a. State practice and case-law **CAHDI (2008) Inf 11**
Since the 35th meeting, the Secretariat has not received any contributions or updates to the database on State practice regarding State Immunities (CAHDI (2008) Inf 11). Delegations are invited to present developments concerning State practice regarding State Immunities orally and to update their contributions to the aforesaid database on a regular basis. Those delegations which have not yet done so are invited to submit their contributions at their earliest convenience.
 - b. UN Convention on Jurisdictional Immunities of States and Their Property – *Tour de table* on the situation in each member and observer state **CAHDI (2008) Inf 12**
Each member and observer state is invited to report on the position regarding accession to the UN Convention on Jurisdictional Immunities of States and Their Property. Since the last CAHDI meeting, no new signatures or ratifications of UN or CoE conventions have been deposited (CAHDI (2008) Inf 12).
7. Organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs
 - a. Situation in member and observer states **CAHDI (2008) Inf 13**
Since the 35th meeting, the delegations of Estonia, Finland, Latvia, Ukraine and the Czech Republic have submitted new contributions or updates to the relevant database (CAHDI (2008) Inf 13). Other delegations are invited to present developments orally and to update their contributions to the aforesaid database on a regular basis. Those delegations 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 present national developments and to suggest specific topics that could be usefully discussed on a comparative basis.
8. National implementation measures of UN sanctions and respect for human rights **CAHDI (2008) Inf 14, CAHDI (2008) Inf 16, CAHDI (2008) Inf 18**
Since the 35th meeting, the Secretariat has not received any contributions to the restricted database on National implementation measures of UN sanctions and respect for human rights (CAHDI (2008) Inf 14). Delegations are invited to present developments orally and to update their contributions to the aforesaid database on a regular basis. Those delegations which have not yet done so are invited to submit their contributions at their earliest convenience. Moreover, delegations are invited to take note of the relevant developments in the United Nations and European Union settings (documents CAHDI (2008) Inf 16 and Inf 18 respectively).
9. Cases before the ECHR involving issues of public international law
All delegations 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 35th meeting the Secretariat has not received any contributions.
10. Peaceful settlement of disputes:
 - a. Compulsory jurisdiction of the ICJ (Article 36(2)) **CAHDI (2008) 7 rev 2 Appendix III**
Delegations are invited to take note of Recommendation CM/Rec(2008)8 of the Committee of Ministers to member states on the acceptance of the jurisdiction of the International Court of Justice which was adopted by the Committee of Ministers on 2 July 2008, as approved by the CAHDI at its 35th meeting (CAHDI (2008) 17 rev 2 Appendix III). Delegations are also invited to consider the update of document CAHDI (2008) 7 rev 2 containing information on the ICJ's jurisdiction under selected international treaties and agreements.
 - b. Compulsory dispute settlement provisions in international conventions
 - c. Overlapping jurisdiction of international tribunals
 - d. Follow-up to Recommendation CM/Rec(2008)9 of the Committee of Ministers to member States on the nomination of international arbitrators and conciliators **CAHDI (2008) 17 rev 2 Appendix IV**
Delegations are invited to take note of Recommendation CM/Rec (2008) 9 of the Committee of Ministers to member states on the nomination of international arbitrators and conciliators which was adopted on 2 July 2008, as approved by the CAHDI at its 35th meeting (CAHDI (2008) 17 rev 2 Appendix IV). Furthermore, delegations are invited to note that under this Recommendation the governments of member States are requested "to maintain and keep under review a list of treaties and other instruments which provide for the nomination of arbitrators or conciliators for inclusion in lists maintained for the purpose of implementing provisions concerning the peaceful settlement of disputes".

11. 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) 20 rev & Add rev

Delegations are invited to consider outstanding reservations and declarations to international treaties concluded outside the Council of Europe and to Council of Europe treaties (CAHDI (2008) 20 rev). Information concerning these treaties can be consulted at the United Nations Treaty Collection site: <http://untreaty.un.org> and at the Council of Europe Treaty Office site: <http://conventions.coe.int>. A table of objections to these reservations and declarations is circulated as an Addendum and delegations are invited to complete it during the discussions under this item.

- b. Consideration of reservations and declarations to international treaties applicable to the fight against terrorism

CAHDI (2008) 10

At the request of the Committee of Ministers, the CAHDI adopted a list of possibly problematic reservations to anti-terrorist treaties at its 28th meeting (CAHDI (2004) 22). The CAHDI subsequently revised the list at its 29th, 30th and 35th meetings. The CAHDI agreed to pursue its review at its 36th meeting with a view to submitting an updated version to the Committee of Ministers. Delegations are therefore invited to reconsider the list and provide any additional information.

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

12. Exchange of views with Ms Patricia O'Brien, UN Under-Secretary-General for Legal Affairs and UN Legal Counsel

13. The work of the International Law Commission (ILC) and of the Sixth Committee

CAHDI (2008) Inf 15

The Report of the ILC on the work of its 60th session was kindly provided by the ILC Secretariat. This document will be distributed in the meeting room. In the last few days, the report has been published on the ILC's website. Mr Roman Kolodkin, Member of the ILC, will introduce this item.

14. Consideration of current issues of international humanitarian law

CAHDI (2008) 23

Delegations are invited to consider this item in the light of the contribution submitted by the delegation of Switzerland.

15. Developments concerning the International Criminal Court (ICC)

16. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)

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 16

The Secretariat will provide information concerning developments in the CoE setting and draw the Committee's attention to developments in other international bodies. CAHDI members are invited to provide any additional information.

19. Follow-up to the International Conference "International Courts and Tribunals – The Challenges Ahead" (London, 6-7 October 2008)

20. Topical issues of international law

D. OTHER

21. Election of the Chair and Vice-Chair of the CAHDI **CAHDI (2008) 19**
As the terms of office of Sir Michael Wood and Mr Rolf Einar Fife are coming to an end, the CAHDI is called upon to elect a new Chair and Vice-Chair on the basis of the regulations stipulated in document CAHDI (2008) 19.
22. Adoption of preliminary draft specific terms of reference for 2009-2010 **CAHDI (2008) 22**
Delegations are invited to consider the preliminary draft specific terms of reference presented by the Secretariat of the CAHDI and approved by the Council of Europe Directorate of Strategic Planning (DSP).
23. Date, place and agenda of the 37th meeting of the CAHDI **CAHDI (2007) 1 Add**
24. Other business:
 a. Status of ratification of Protocol 14 to the ECHR **CAHDI (2008) Inf 17**
AS/JUR (2008) 45
(Document AS/JUR (2008) 45 is distributed by the Chair of the CAHDI at the request of the Secretariat of the PACE Committee on Legal Affairs and Human Rights.)

TENTATIVE ORDER OF BUSINESS

	7 October 2008
14h30	Items 1 – 4, 12, 5
17h00	End of session
17h15	Departure for dinner hosted by Foreign and Commonwealth Office of the United Kingdom

	8 October 2008
09h30	Items 6-11
12h30	<i>Lunch Break (lunch will be served at Lancaster House)</i>
14h00	13 – 16, 19, 17, 18, 20 - 24
17h15	End of session