



Strasbourg, 20/03/09

CAHDI (2009) 7

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

**37th meeting, Strasbourg, 19-20 March 2009**

### **List of items discussed and decisions taken Abridged report**

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 37<sup>th</sup> meeting in Strasbourg on 19 and 20 March 2009 with Mr. Rolf Einar Fife in the Chair. The list of participants is set out in Appendix I to the meeting report<sup>1</sup>.
2. The CAHDI adopted its agenda as set out in **Appendix I** to the present report. It also adopted the report of its 36th meeting (London, 7-8 October 2008) and authorised the Secretariat to publish it on the CAHDI's website.
3. The Director of Legal Advice and Public International Law (Jurisconsult), Mr. Manuel Lezertua, informed the CAHDI about developments concerning the Council of Europe since the last meeting of the Committee, in particular those concerning the Council of Europe Treaty Series. His intervention is set out in Appendix III to the meeting report.
4. The CAHDI considered the decisions of the Committee of Ministers relevant to its work and requests for the CAHDI's opinion. In particular, it took note of the Committee of Ministers' request for the CAHDI's opinion on the public international law aspects of the advisability and modalities of inviting the European Court of Human Rights to put into practice certain procedures which are already envisaged to increase the Court's case-processing capacity, in particular the new committee and single-judge procedures.<sup>2</sup> In this respect, the Committee adopted its opinion as set out in document CAHDI (2009) 2 and instructed the Secretariat to transmit it to the Committee of Ministers.
5. The CAHDI considered state practice and case-law regarding state immunities. It welcomed new contributions to the relevant CAHDI database and invited delegations to submit or update their contributions at their earliest convenience. In addition, it took stock of the process of accession of its member and observer states to the United Nations Convention on Jurisdictional Immunities of States and Their Property.
6. The CAHDI further considered the issue of organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs on the basis of contributions by the delegations. The Committee also welcomed new contributions to its relevant database and invited delegations to submit or update their contribution at their earliest convenience.
7. The CAHDI further discussed the issue of the national implementation of UN sanctions and respect for human rights and welcomed new contributions to the relevant

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<sup>1</sup> Document CAHDI (2009) 8

<sup>2</sup> Committee of Ministers' decision of 19 November 2009 (document CM/Del/Dec (2008) 1041)

database. It invited the delegations to submit or update their contribution at their earliest convenience.

8. The CAHDI took note of cases brought before the European Court of Human Rights (ECHR) involving issues of public international law on the basis of information provided by delegations. It further invited delegations to keep the Committee informed about relevant pending cases.

9. In the context of its consideration of issues relating to the peaceful settlement of disputes, the CAHDI took note of International Court of Justice's jurisdiction under selected international treaties and agreements and, in particular, the situation concerning the Council of Europe's member and observer states. The Committee invited the delegations to submit to the Secretariat any relevant information on this matter.

Furthermore, the CAHDI took note of developments in the implementation of Recommendation Rec(2008)9 of the Committee of Ministers to member states on the nomination of international arbitrators and conciliators. The Committee underlined the importance of maintaining, and keeping 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. The delegations had been invited to submit to the Secretariat any relevant information on this matter.

10. In the framework of its activity as the European Observatory of Reservations to International Treaties, the CAHDI considered a list of outstanding reservations and declarations to international treaties and the follow-up given to them by delegations. The amended table summarising the delegations' positions is set out in **Appendix II** to the present report.

The CAHDI also considered the list of possibly problematic reservations to international treaties applicable to the fight against terrorism which the Committee had drawn up in pursuance of the Committee of Ministers' decision of 21 September 2001.<sup>3</sup> The Committee agreed that this list had been updated since its last transmission to the Committee of Ministers<sup>4</sup> and instructed the Secretariat to transmit this new version to the Committee of Ministers. The aforesaid list is set out in **Appendix III** to the present report.

11. On the basis of contributions from delegations the CAHDI took note of current issues of international humanitarian law, recent developments concerning the International Criminal Court (ICC), as well as developments concerning the implementation and functioning of the international criminal tribunals.

12. The Committee also took note of the follow-up to the International Conference "International Courts and Tribunals – The Challenges Ahead", organised by the Council of Europe under the Swedish Chairmanship of the Committee of Ministers and at the invitation of the British authorities (London, 6-7 October 2008).

13. The CAHDI considered the follow-up to the Outcome Document of the 2005 UN World Summit and took note of the Committee of Ministers document "The Council of Europe and the rule of law - an overview". It agreed to pursue consideration of this matter at its next meeting.

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<sup>3</sup> Document CM/Del/Dec (2001) 765bis/2.1

<sup>4</sup> document CAHDI (2004) 22

14. The CAHDI took note of the work undertaken in the Council of Europe and other international bodies in the field of the fight against terrorism. It underlined the importance of the promotion of the Council of Europe counter-terrorism conventions and called upon member and observer States to sign and ratify relevant Council of Europe instruments.

15. The CAHDI considered some topical issues of international law on the basis of contributions from delegations.

16. Following the resignation of the Vice-Chair and in accordance with the statutory regulations, the CAHDI elected Ms Edwige Belliard (France) as Vice-Chair of the Committee.

17. The CAHDI decided to hold its next meeting in Strasbourg on 10 and 11 September 2009 and adopted the preliminary draft agenda as it appears in **Appendix IV** to the present report.

## **APPENDIX I**

### **AGENDA**

#### **A. INTRODUCTION**

1. Opening of the meeting by the Chair, Mr. Rolf Einar Fife
2. Adoption of the agenda
3. Approval of the report of the 36<sup>th</sup> meeting
4. Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua

#### **B. ONGOING ACTIVITIES OF THE CAHDI**

5. Decisions by the Committee of Ministers concerning the CAHDI and requests for the CAHDI's opinion

Opinion of the CAHDI on the public international law aspects of the advisability and modalities of inviting the European Court of Human Rights to put into practice certain procedures which are already envisaged to increase the Court's case-processing capacity, in particular the new committee and single judge procedures.

6. State immunities:
  - a. State practice and case-law
  - b. UN Convention on Jurisdictional Immunities of States and Their Property
7. Organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs
  - a. Question dealt with by offices of the Legal Adviser which are of wider interest and related to drafting of implementing legislation, foreign litigation, peaceful settlements of disputes, other questions of relevance to the Legal Adviser.
  - b. Updates of the website entries
8. National implementation measures of UN sanctions and respect for human rights
9. Cases before the ECHR involving issues of public international law
10. Peaceful settlement of disputes:
  - a. Compulsory jurisdiction of the ICJ (Article 36(2))
  - b. Follow-up to Recommendation CM/Rec(2008)9 of the Committee of Ministers to member States on the nomination of international arbitrators and conciliators
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
  - b. Consideration of reservations and declarations to international Treaties applicable to the fight against terrorism

#### **C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW**

12. Consideration of current issues of international humanitarian law
13. Developments concerning the International Criminal Court (ICC)

14. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)
15. Follow-up to the International Conference “International Courts and Tribunals – The Challenges ahead” (London, 6-7 October 2008)
16. Follow-up to the outcome document of the 2005 UN World Summit – Advancing the international rule of law
17. Fight against terrorism - Information about work undertaken in the Council of Europe and other international bodies
18. Topical issues of international law

**D. OTHER**

19. Election of the Vice-Chair
20. Date, place and agenda of the 38<sup>th</sup> meeting of the CAHDI
21. Other business:

(20/03/09)

- State has objected / *L'Etat a fait objection*
- State intends to object / *L'Etat envisage de faire objection*
- State does not intend to object / *L'Etat n'envisage pas de faire objection*

- A. Convention on the Rights of Persons with Disabilities and Optional Protocol thereto / *Convention relative aux droits des personnes handicapées et son protocole facultatif*, New York, 13 December / décembre 2006
- B. International Covenant on Economic, Social and Cultural Rights / *Pacte international relative aux droits économiques, sociaux et culturels*, New York, 16 December / décembre 1966
- C. International Convention for the Suppression of Acts of Nuclear Terrorism / *Convention internationale pour la répression des actes de terrorisme nucléaire*, New York, 13 April/avril 2005
- D. Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents / *Convention sur la prévention et le répression des infractions contre les personnes jouissant d'une protection internationale, y compris les agents diplomatiques*, New-York, 14 December/décembre 1973

[illegible]

	Conventions	A						B	C		D
	Reservation/ Réserve	1	2	3	4	5	6	7	8	9	10
Iceland / <i>Islande</i>											
Ireland / <i>Irlande</i>											
Italy / <i>Italie</i>									●		
Latvia / <i>Lettonie</i>									●		
Liechtenstein											
Lithuania / <i>Lituanie</i>											
Luxembourg	□	□							□		
Malta / <i>Malte</i>											
Moldova	□	□							□		
Monaco											
Montenegro											
Netherlands / <i>Pays-Bas</i>	●										
Norway / <i>Norvège</i>											
Poland / <i>Pologne</i>	○**										
Portugal											
Romania / <i>Roumanie</i>											
Russian Federation / <i>Fédération de Russie</i>									○*		
San Marino / <i>Saint-Marin</i>											
Serbia / <i>Serbie</i>											
Slovakia / <i>Slovaquie</i>	○**										
Slovenia / <i>Slovénie</i>											
Spain / <i>Espagne</i>											
Sweden / <i>Suède</i>	●	○									
Switzerland / <i>Suisse</i>											
"the former Yugoslav Republic of Macedonia" / <i>"l'ex-République yougoslave de Macédoine"</i>											
Turkey / <i>Turquie</i>											
Ukraine											
United Kingdom / <i>Royaume-Uni</i>											
Canada											
Holy See / <i>Saint-Siège</i>											
Israel											
Japan / <i>Japon</i>											□
Mexico / <i>Mexique</i>											
United States of America / <i>Etats-Unis d'Amérique</i>									□		

(\*) Consideration of political statement / *Considération d'une déclaration de nature politique*

(\*\*) If confirmed upon ratification / *Si confirmé lors de la ratification*

(\*\*\*) Considers it a late reservation and therefore not in force / *Considère ceci comme une réserve tardive et donc pas en vigueur*

**OBJECTIONS AUX RÉSERVES ET DÉCLARATIONS AUX TRAITÉS DU CONSEIL DE L'EUROPE**  
(20/03/09)

**Legend / Légende:**

- State has objected / *L'Etat a fait objection*
- State intends to object / *L'Etat envisage de faire objection*
- State does not intend to object / *L'Etat n'envisage pas de faire objection*

**TREATIES / TRAITÉS**

- A. Council of Europe Framework Convention on the Value of Cultural Heritage for Society / *Convention-cadre du Conseil de l'Europe sur la valeur du patrimoine culturel pour la société*, CETS/STCE n° 199, Faro, 27 October/octobre 2005
- B. Protocol amending the European Convention on the Suppression of Terrorism / *Protocole portant amendement à la Convention européenne pour la répression du terrorisme*, ETS/STE n° 190, Strasbourg, 15 May/mai 2003
- C. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters / *Deuxième protocole additionnel à la Convention européenne d'entraide judiciaire en matière pénale*, ETS/STE n° 182, Strasbourg, 8 November/novembre 2001
- D. Anti-Doping Convention / *Convention contre le dopage*, ETS/STE n° 135, Strasbourg, 16 November/novembre 1989
- E. European Charter for Regional or Minority Languages / *Charte européenne des langues régionales ou minoritaires*, ETS/STE n° 148, Strasbourg, 5 November/novembre 1992

States / Etats	Conventions	A	B	C	D	E
		1	2	3	4	5
	Reservation/ Réserve	Moldova	Azerbaijan Azerbaïdjan	FYROM	Moldova	Poland Pologne
	Deadline Délai	04/12/09	04/12/09	17/12/09	05/02/10	19/02/10
Albania / Albanie						
Andorra / Andorre						
Armenia / Arménie						
Austria / Autriche						
Azerbaijan / Azerbaïdjan						
Belgium / Belgique						
Bosnia and Herzegovina / Bosnie-Herzégovine						
Bulgaria / Bulgarie						
Croatia / Croatie						
Cyprus / Chypre						
Czech Republic / République tchèque						
Denmark / Danemark						
Estonia / Estonie						
Finland / Finlande						
France						
Georgia / Géorgie						
Germany / Allemagne						
Greece / Grèce						
Hungary / Hongrie						
Iceland / Islande						
Ireland / Irlande						
Italy / Italie						
Latvia / Lettonie						
Liechtenstein						
Lithuania / Lituanie						
Luxembourg						
Malta / Malte						
Moldova						
Monaco						
Montenegro						



Netherlands / Pays-Bas						
Norway / Norvège						
Poland / Pologne						
Portugal						
Romania / Roumanie						
Russian Federation / Fédération de Russie						
San Marino / Saint-Marin						
Serbia / Serbie						
Slovakia / Slovaquie						
Slovenia / Slovénie						
Spain / Espagne						
Sweden / Suède						
Switzerland / Suisse						
"the former Yugoslav Republic of Macedonia"/ "l'ex-République yougoslave de Macédoine"						
Turkey / Turquie						
Ukraine						
United Kingdom / Royaume-Uni						
Canada						
Holy See / Saint-Siège						
Israel						
Japan / Japon						
Mexico / Mexique						
United States of America / Etats-Unis d'Amérique						

(\*) Consideration of political statement / *Considération d'une déclaration de nature politique*

(\*\*) If confirmed upon ratification / *Si confirmé lors de la ratification*

(\*\*\*) Considers it a late reservation and therefore not in force / *Considère ceci comme une réserve tardive et donc pas en vigueur*

## APPENDIX III

LIST OF PROBLEMATIC RESERVATIONS AND DECLARATIONS TO INTERNATIONAL TREATIES APPLICABLE TO THE FIGHT  
AGAINST TERRORISM

(COMPILED ON THE BASIS OF CONTRIBUTIONS FROM DELEGATIONS)

20/09/05

Convention	Reservation/Declaration by		Comments by delegations
	Country/Date	Content/Notes	
<b>Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971</b>	Venezuela	Reservation upon ratification, regarding Articles 4, 7 and 8 of the Convention:	<p><b>United Kingdom (UK):</b> Reservation is contrary to the paragraph 3(g) of UNSCR 1373 (2001) in so far as it purports to permit the Venezuelan authorities to take the political motives of offenders into consideration deciding whether to permit extradition of an offender.</p> <p><b>Finland:</b> This reservation is not as problematic as the other ones in the list since it concerns minor offences.</p>
	21 Nov. 1983	<p>"Venezuela will take into consideration clearly political motives and the circumstances under which offences described in Article 1 of this Convention are committed, in refusing to extradite or prosecute an offender, unless financial extortion or injury to the crew, passengers, or other persons has occurred".</p> <p>The Government of the United Kingdom of Great Britain and Northern Ireland made the following declaration in a Note dated 6 August 1985 to the Department of State of the Government of the United States:</p> <p>"The Government of the United Kingdom of Great Britain and Northern Ireland do not regard as valid the reservation made by the Government of the Republic of Venezuela insofar as it purports to limit the obligation under Article 7 of the Convention to submit the case against an offender to the competent authorities of the State for the purpose</p>	

		<p>of prosecution".</p> <p>With reference to the above declaration by the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of Venezuela, in a Note dated 21 November 1985, informed the Department of State of the Government of the United States of the following:</p> <p>"The reserve made by the Government of Venezuela to Articles 4, 7 and 8 of the Convention is based on the fact that the principle of asylum is contemplated in Article 116 of the Constitution of the Republic of Venezuela. Article 116 reads: 'The Republic grants asylum to any person subject to persecution or which finds itself in danger, for political reasons, within the conditions and requirements established by the laws and norms of international law.'</p> <p>It is for this reason that the Government of Venezuela considers that in order to protect this right, which would be diminished by the application without limits of the said articles, it was necessary to request the formulation of the declaration contemplated in Art. 2 of the Law approving the Convention for the Suppression of Unlawful Acts Against the Security (sic) of Civil Aviation".</p>	

<b>Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, New York, 14 December 1973</b>	Burundi 17 Dec. 1980	In respect of cases where the alleged offenders belong to a national liberation movement recognized by Burundi or by an international organization of which Burundi is a member, and their actions are part of their struggle for liberation, the Government of the Republic of Burundi reserves the right not to apply to them the provisions of article 2, paragraph 2, and article 6, paragraph 1.	<b>UK:</b> Reservation purporting to reserve to Burundi the right not to apply the aspects of the Convention to members of national liberation movements is contrary to the objects and purpose of the Convention.
	Malaysia 24 Sept. 2003	The Government of Malaysia understands Article 7 of the Convention to include the right of the competent authorities to decide not to submit any particular case for prosecution before the judicial authorities if the alleged offender is dealt with under national security and preventive detention laws.	<b>Greece (Gr):</b> Declaration by Malaysia concerning article 7 runs contrary to the substance of this article which expressly provides that the case will be submitted to the competent authorities "without exception whatsoever and without undue delay". By the same token, the declaration seems to violate rules of due process.
<b>Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980</b>	Pakistan 12 Sept. 2000	1. The Government of the Islamic Republic of Pakistan does not consider itself bound by paragraph 2 of Article 2, as it regards the question of domestic use, storage and transport of nuclear material beyond the scope of the said Convention.	<b>UK:</b> Reservation, which purports to exclude the effect of paragraph 2 of Article 2, appears to be contrary to object and purpose of the Convention.
	France 6 Sept. 1991	The French Government declares that the jurisdiction referred to in Article 8, paragraph 4 may not be invoked against it, since the criterion of jurisdiction based on involvement in international nuclear transport as the exporting or importing State is not expressly recognized in international law and is not provided for in French national legislation.  (Original in French)	<b>Gr:</b> Concerning the declaration by France with regard to article 8 paragraph 4 we doubt whether a jurisdiction established by another State Party on the basis of that paragraph may be rebutted by the State against which it is invoked, unless such jurisdiction is not consistent with international law in the particular case.  However, the Greek delegation doubts whether the declarations made by France are of such fundamental importance as to run contrary to the object and purpose of the Convention.

	<p>Oman</p> <p>11 June 2003</p>	<p>1. Reservation with respect to Article 8; paragraph 4; the text of which states that “each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in Article 7 when it is involved in international nuclear transport as the exporting or importing State”.</p> <p>2. In accordance with Article 17; paragraph 3 of the Convention; the Sultanate does not consider itself bound by the dispute settlement procedure provided for in Article 17; paragraph 2 of the Convention”.</p> <p>(Original in Arabic)</p> <p>Upon a request by the Secretariat, the following specification of the nature of the reservation made with respect to Article 8, paragraph 4; was received from the Sultanate of Oman.</p> <p>“The reservation to Article 8, paragraph 4, made by the Sultanate of Oman is due to the fact that it is inconsistent with the principle of sovereignty of national jurisdiction; as well as with the principles of international law. This is because it establishes jurisdiction by importing and exporting States over offences committed outside their territories when they are involved in international nuclear transport.”</p> <p>(Original in Arabic)</p>	<p><b>Gr:</b> regards the reservation by Oman, it is clear that Oman does not accept the ground of jurisdiction which is enshrined, although in a facultative way, in paragraph 4 of article 8.</p> <p>However, the Greek delegation doubts whether the declarations / reservations made by Oman are of such fundamental importance as to run contrary to the object and purpose of the Convention.</p>
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<b>International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997</b>	Israel  10 Feb. 2003	Declaration:  The Government of the State of Israel understands that the term "international humanitarian law" referred to in Article 19, of the Convention has the same substantive meaning as the term "the laws of war"( "jus in bello"). This body of laws does not include the provisions of the protocols additional to the Geneva Conventions of 1977 to which the State of Israel is not a Party.  The Government of the State of Israel understands that under Article 1 paragraph 4 and Article 19 the Convention does not apply to civilians who direct or organize the official activities of military forces of a state.	<b>Gr:</b> The declaration by Israel concerning reference to article 19 is problematic insofar as it considers that the provisions of the Protocols Additional to the Geneva Conventions do not form part of international humanitarian law. As such and to the extent that such Protocols reflect customary international law, this declaration/reservation is contrary to the object and purpose of the Convention.
	Malaysia  24 Sept. 2003	Declaration:  The Government of Malaysia understands Article 8 (1) of the Convention to include the right of the competent authorities to decide not to submit any particular case for prosecution before the judicial authorities if the alleged offender is dealt with under national security and preventive detention laws.	<b>Gr:</b> Same considerations as in the case of the Malaysian reservation to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.
	Turkey  20 May 1999	Declarations upon signature:  The Republic of Turkey declares its understanding that the term international humanitarian law referred to in article 19 of the Convention for the Suppression of Terrorist Bombings shall be interpreted as comprising the relevant international rules excluding the provisions of additional Protocols to Geneva Conventions of 12 August 1949, to which Turkey is not a Party. The first part	<b>Gr:</b> Same as above concerning Israel.

	30 May 2002	<p>of the second paragraph of the said article should not be interpreted as giving a different status to the armed forces and groups other than the armed forces of a state as currently understood and applied in international law and thereby as creating new obligations for Turkey.</p> <p>Upon ratification:</p> <p>The Republic of Turkey declares its understanding that the term international humanitarian law referred to in Article (19) of the Convention for the Suppression of Terrorist Bombings shall be interpreted as comprising the relevant international rules excluding the provisions of Additional Protocols to Geneva Conventions of 12 August 1949, to which Turkey is not a Party. The first part of the second paragraph of the said article should not be interpreted as giving a different status to the armed forces and groups other than the armed forces of a state as currently understood and applied in international law and thereby as creating new obligations for Turkey.</p>	
	<p>Pakistan</p> <p>13 Aug. 2002</p>	<p>Declaration:</p> <p>The Government of the Islamic Republic of Pakistan declares that nothing in this Convention shall be applicable to struggles, including armed struggle, for the realization of right of self-determination launched against any alien or foreign occupation or domination, in accordance with the rules of international law. This interpretation is consistent with Article 53 of the Vienna Convention on the Law of Treaties 1969 which provides that an agreement or treaty concluded in conflict with</p>	<p><b>Gr:</b> Pakistan's reservation is of a general nature and its application would lead to inoperativeness of the Convention. As such it runs counter to the object and purpose of the Convention.</p> <p><b>UK:</b> Reservation purporting not to apply the Convention in respect of "struggles, including armed struggles, for the realization of the right of self-determination launched against any alien of foreign occupation or domination" is incompatible with the object and purpose of the Convention.</p>

		<p>existing jus cogen or peremptory norm of international law is void and, the right of self-determination is universally recognized as a jus cogen.</p> <p>Note of the UN Secretariat:</p> <p>With regard to the declaration made by the Government of Pakistan upon accession, the UN Secretary-General received the following communication from Russian Federation:</p> <p>“The Russian Federation has considered the declaration made by the Islamic Republic of Pakistan upon accession to the International Convention for the Suppression of Terrorist Bombings, of 1997.</p> <p>The Russian Federation takes the position that every State which has agreed to the binding nature of the provisions of the Convention must adopt such measures as may be necessary, pursuant to article 5, to ensure that criminal acts which, in accordance with article 2, are within the scope of the Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.</p> <p>The Russian Federation notes that the realization of the right of peoples to self-determination must</p>	<p><b>Russian Federation (RU):</b></p> <p>1. In the Russian Federation the procedure of making objections to reservations under the Federal Law of 1995 “On International Treaties of the Russian Federation” is set as follows. An objection to, as well as acceptance of a reservation to a treaty, can be made by a State organ that expressed consent of a State to be bound by that treaty. Such organs are the President, the Government and the Parliament. The last one decides upon the question when the treaty concerned has been ratified (or the Russian Federation has acceded to it by adopting a federal legislative act – Federal Law).</p> <p>2. Human rights treaties as well as anti-terrorist conventions under Russian legislation are subject to ratification by the Parliament of the Russian Federation. Objections to reservations to such treaties, therefore, require the same procedure as treaties themselves. As usual this process takes much time. This was the main consideration taken into account when it was decided to make not an objection to the declaration made by Pakistan to the International Convention for the Suppression of Terrorist Bombings but rather a declaration of political nature. Russian declaration of 22 September 2003 in response to the Pakistan’s declaration unlike an objection does not entail any legal effects; its aim was to persuade Pakistan to reconsider its declaration.</p>
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		<p>not conflict with other fundamental principles of international law, such as the principle of the settlement of international disputes by peaceful means, the principle of the territorial integrity of States, and the principle of respect for human rights and fundamental freedoms.</p> <p>The Russian Federation believes that the declaration made by the Islamic Republic of Pakistan upon accession to the International Convention for the Suppression of Terrorist Bombings is incompatible with the object and purpose of the Convention. In the view of the Russian Federation, the declaration made by the Islamic Republic of Pakistan may jeopardize the fulfilment of the provisions of the Convention in relations between the Islamic Republic of Pakistan and other States Parties and thereby impede cooperation in combating acts of terrorist bombing. It is in the common interest of States to develop and strengthen cooperation in formulating and adopting effective practical measures to prevent terrorist acts and punish the perpetrators.</p> <p>The Russian Federation, once again declaring its unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustified, regardless of their motives and in all their forms and manifestations, wherever and by whomever they are perpetrated, calls upon the Islamic Republic of Pakistan to reconsider its position and withdraw the declaration.”</p>	
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	Egypt  9 Aug. 2005	<p>Reservations:</p> <ol style="list-style-type: none"> <li>1. The Government of the Arab Republic of Egypt declares that it shall be bound by article 6, paragraph 5, of the Convention to the extent that the national legislation of States Parties is not incompatible with the relevant norms and principles of international law.</li> <li>2. The Government of the Arab Republic of Egypt declares that if shall be bound by article 19, paragraph 2, of the Convention to the extent that the armed forces of a State, in the exercise of their duties, do not violate the norms and principles of international law.</li> </ol> <p>The Convention will enter into force for Egypt on 8 September 2005 in accordance with its article 22 (2).</p>	This reservation was included in the list at the 30 <sup>th</sup> meeting of the <b>CAHDI</b> : concern about the reservation relating to article 19 paragraph 2 and in particular about the possibility of expanding the scope of the Convention by means of a reservation.
<b>International Convention for the Suppression of Financing of Terrorism, New York, 9 December 1999</b>	Democratic People's Republic of Korea  12 Nov. 2001	<p>Reservation upon signature:</p> <ol style="list-style-type: none"> <li>1. The Democratic People's Republic of Korea does not consider itself bound by the provisions of article 2, paragraph 1, sub-paragraph (a) of the Convention.</li> <li>2. The Democratic People's Republic of Korea does not consider itself bound by the provisions of article 14 of the Convention.</li> <li>3. The Democratic People's Republic of Korea does not consider itself bound by the provisions of article 24, paragraph 1 of the Convention.</li> </ol>	<p><b>UK:</b> Reservations purporting to exclude Articles 2(1) (a) and 14 of the Convention are contrary to the object and purpose of the Convention and to UNSCR 1371(2001).</p> <p><b>Gr:</b> Article 14 of the Convention is a fundamental provision of the Convention and the reservation of Democratic People's Republic of Korea to it runs counter to the object and purpose of the Convention.</p>

	<p>Jordan</p> <p>28 Aug. 2003</p>	<p>Declarations:</p> <p>1. The Government of the Hashemite Kingdom of Jordan does not consider acts of national armed struggle and fighting foreign occupation in the exercise of people's right to self-determination as terrorist acts within the context of paragraph 1(b) of article 2 of the Convention.</p> <p>2. Jordan is not a party to the following treaties:</p> <p>A. Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980.</p> <p>B. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.</p> <p>C. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.</p> <p>D. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997.</p> <p>Accordingly Jordan is not bound to include, in the application of the International Convention for the Suppression of the Financing of Terrorism, the offences within the scope and as defined in such Treaties.</p>	<p><b>UK:</b> Reservation, which does not consider “acts of national armed struggle and fighting foreign occupation in the exercise of people's right to self-determination” as terrorist acts, is contrary to the object and purpose of the Convention.</p> <p><b>Gr:</b> Same commentary as regards to the Pakistani reservation to the International Convention for the Suppression of Terrorist Bombings.</p> <p><b>RU:</b> Keeping with the Secretary General's request and the Committee of Ministers decision, on 1 March 2005 Russia had written to Jordan about its declaration to this International Convention for the Suppression of the Financing of Terrorism, asking it to review its position. This was not an objection by Russia that would require the adoption of a federal law, however.</p>
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	<p>Egypt</p> <p>1 March 2005</p>	<p>Reservation:</p> <p>1. Under article 2, paragraph 2 (a), of the Convention, the Government of the Arab Republic of Egypt considers that, in the application of the Convention, conventions to which it is not a party are deemed not included in the annex.</p> <p>2. Under article 24, paragraph 2, of the Convention, the Government of the Arab Republic of Egypt does not consider itself bound by the provisions of paragraph 1 of that article.</p> <p>Explanatory declaration:</p> <p>Without prejudice to the principles and norms of general international law and the relevant United Nations resolutions, the Arab Republic of Egypt does not consider acts of national resistance in all its forms, including armed resistance against foreign occupation and aggression with a view to liberation and self-determination, as terrorist acts within the meaning of article 2, [paragraph 1] subparagraph (b), of the Convention.</p> <p>The Convention entered into force for Egypt on 31 March 2005 in accordance with its article 26 (2).</p>	<p>This reservation was included in the list at the 30<sup>th</sup> meeting of the <b>CAHDI</b>.</p> <p><b>Latvia:</b> The Government of the Republic of Latvia has examined the explanatory reservation made by the Arab Republic of Egypt to the International Convention of the Suppression of the Financing of Terrorism upon accession to the Convention regarding Article 2 paragraph 1 (b) thereof.</p> <p>The Government of the Republic of Latvia is of the opinion that this explanatory declaration is in fact unilateral act that is deemed to limit the scope of the Convention and therefore should be regarded as reservation. Thus, this reservation contradicts to the objectives and purposes of the Convention to suppress the financing of terrorist acts wherever and by whomsoever they may be carried out.</p> <p>Moreover, the Government of the Republic of Latvia considers that the reservation conflicts with the terms of Article 6 of the Convention setting out the obligation for States Parties to adopt such measures as may be necessary to ensure that criminal acts within the scope of the Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or similar nature.</p> <p>The Government of the Republic of Latvia recalls that customary international law as codified by Vienna Convention on the Law of Treaties, and in particular Article 19 (c), sets out that reservations that are incompatible with the object and purpose of</p>
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			<p>a treaty are not permissible.</p> <p>The Government of the Republic of Latvia therefore objects to the aforesaid reservation made by the Arab Republic of Egypt to the International Convention for the Suppression of the Financing of Terrorism.</p> <p>However, this objection shall not preclude the entry into force of the Convention between the Republic of Latvia and the Arab Republic of Egypt. Thus, the Convention will become operative without the Arab Republic of Egypt benefiting from its reservation.</p>
	<p>Syrian Arab Republic</p> <p>24 April 2005</p>	<p>Reservations and declarations:</p> <p>A reservation concerning the provisions of its article 2, paragraph 1 (b), inasmuch as the Syrian Arab Republic considers that acts of resistance to foreign occupation are not included under acts of terrorism.</p> <p>Pursuant to article 2, paragraph 2 (a) of the Convention, the accession of the Syrian Arab Republic to the Convention shall not apply to the following treaties listed in the annex to the Convention until they have been adopted by the Syrian Arab Republic:</p> <ol style="list-style-type: none"> <li>1. The International Convention against the Taking of Hostages, adopted by the General Assembly on 17 December 1979;</li> <li>2. The Convention on the Physical Protection of Nuclear Materials, adopted at Vienna on 3 March</li> </ol>	<p>This reservation was included in the list at the 30<sup>th</sup> meeting of the <b>CAHDI</b>.</p> <p><b>Latvia:</b> The Government of the Republic of Latvia has examined the reservation made by the Syrian Arab Republic to the International Convention of the Suppression of the Financing of Terrorism upon accession to the Convention regarding Article 2 paragraph 1 (b) thereof.</p> <p>The Government of the Republic of Latvia is of the opinion that this reservation unilaterally limits the scope of the Convention and is thus in contradiction to the objectives and purposes of the Convention to suppress the financing of terrorist acts wherever and by whomsoever they may be carried out.</p> <p>Moreover, the Government of the Republic of Latvia considers that the reservation conflicts with the terms of Article 6 of the Convention setting out the obligation for State Parties to adopt such measures</p>

		<p>1980;</p> <p>3. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly on 15 December 1997.</p> <p>Pursuant to article 24, paragraph 2, of the Convention, the Syrian Arab Republic declares that it does not consider itself bound by paragraph 1 of the said article.</p> <p>The accession of the Syrian Arab Republic to this Convention shall in no way imply its recognition of Israel or entail its entry into any dealings with Israel in the matters governed by the provisions thereof.</p> <p>The Convention will enter into force for the Syrian Arab Republic on 24 May 2005 in accordance with its article 26 (2).</p>	<p>as may be necessary to ensure that criminal acts within the scope of the Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or similar nature.</p> <p>The Government of the Republic of Latvia recalls that customary international law as codified by Vienna Convention on the Law of Treaties, and in particular Article 19 (c), sets out that reservations that are incompatible with the object and purpose of a treaty are not permissible.</p> <p>The Government of the Republic of Latvia therefore objects to the aforesaid reservation made by the Syrian Arab Republic to the International Convention for the Suppression of the Financing of Terrorism.</p> <p>However, this objection shall not preclude the entry into force of the Convention between the Republic of Latvia and the Syrian Arab Republic. Thus, the Convention will become operative without the Syrian Arab Republic benefiting from its reservation.</p>
	<p>Bangladesh</p> <p>26 August 2005</p>	<p>Reservation:</p> <p>"Pursuant to Article 24, paragraph 2 of the Convention [the] Government of the People's Republic of Bangladesh does not consider 1 itself bound by the provisions of Article 24, paragraph of the Convention."</p> <p>Understanding:</p> <p>"[The] Government of the People's Republic of Bangladesh understands that its accession to this Convention shall not be deemed to be inconsistent with its international obligations under the</p>	<p>These reservation and understanding were included in the list following the contribution of Latvia for the 35<sup>th</sup> meeting of the CAHDI.</p> <p><b>Latvia:</b> The Government of the Republic of Latvia has carefully examined the 'understanding' made by the People's Republic of Bangladesh to the International Convention for the Suppression of the Financing of Terrorism upon accession.</p> <p>Thus, the Government of the Republic of Latvia is of the opinion that the understanding is in fact a</p>

		Constitution of the country."	<p>unilateral act deemed to limit the scope of application of the International Convention for the Suppression of the Financing of Terrorism and therefore, it shall be regarded as a reservation.</p> <p>Moreover, the Government of the Republic of Latvia has noted that the understanding does not make it clear to what extent the People's Republic of Bangladesh considers itself bound by the provisions of the International Convention for the Suppression of the Financing of Terrorism and whether the way of implementation of the provisions of the aforementioned Convention is in line with the object and purpose of the Convention.</p> <p>The Government of the Republic of Latvia therefore objects to the aforesaid reservation made by the People's Republic of Bangladesh to the International Convention for the Suppression of the Financing of Terrorism.</p> <p>However, this objection shall not preclude the entry into force of the International Convention for the Suppression of the Financing of Terrorism between the Republic of Latvia and the People's Republic of Bangladesh. Thus, the International Convention for the Suppression of the Financing of Terrorism will become operative without People's Republic of Bangladesh benefiting from its reservation.</p>
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<b>Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome 10 March 1988 / Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Rome 10 March 1988</b>	Egypt  8 Jan. 1993	<p>The instrument of ratification was accompanied by the following reservations:</p> <ol style="list-style-type: none"> <li>1. A reservation is made to article 16 on the peaceful settlement of disputes because it provides for the binding jurisdiction of the International Court of Justice, and also with regard to the application of the Convention to seagoing ships in internal waters which are scheduled to navigate beyond territorial waters.</li> <li>2. A reservation is made to article 6, paragraph 2, of the Convention and article 3, paragraph 2, of the Protocol because those articles permit the optional jurisdiction of blackmailed States (which are asked by the perpetrator of an act of terrorism to do or abstain from doing any act).</li> </ol> <p>This is in compliance with the provision of paragraph 4 of each of the two articles.</p>	<p><b>Gr:</b> The reservation of Egypt insofar as it refers to seagoing vessels in internal waters which are scheduled to navigate beyond territorial waters, seems to restrict the scope of application of the Convention as defined in article 4 although such article is not explicitly referred to in the text of the reservation. The reservation of Egypt to article 6 paragraph 2 of the Convention and article 3 paragraph 2 of the Protocol could be problematic in accordance with what was said concerning the reservation of Oman although the Egyptian reservation is less explicit.</p>
<b>International Convention against the Taking of Hostages, New York, 17 December 1979</b>	Lebanon  4 Dec. 1997	<p>Declaration:</p> <ol style="list-style-type: none"> <li>1. The accession of the Lebanese Republic to the Convention shall not constitute recognition of Israel, just as the application of the Convention shall not give rise to relations or cooperation of any kind with it.</li> <li>2. The provisions of the Convention, and in particular those of its article 13, shall not affect the Lebanese Republic's stance of supporting the right of States and peoples to oppose and resist foreign occupation of their territories.</li> </ol>	<p><b>Gr:</b> The declaration made by Lebanon although seemingly of political nature may nonetheless in our view indicate an understanding by Lebanon that the Convention may not apply even when there is an international element to the offence.</p>



	<p>Islamic Republic of Iran</p> <p>20 November 2006</p>	<p>Reservation: "Pursuant to Article 16, paragraph 2 of the International Convention against the Taking of Hostages, the Government of the Islamic Republic of Iran declares that it does not consider itself bound by the provisions of Article 16, paragraph 1 of the Convention regarding the reference of any dispute concerning the interpretation, or application of this Convention, which is not settled by negotiation to arbitration or to the International Court of Justice."</p> <p>Interpretative declaration: "The Government of the Islamic Republic of Iran declares its categorical condemnation of each and every act of terrorism, including taking innocent civilians as hostages, which violates human rights and fundamental freedom of human kind, undermines the stability and security of human communities, and hinders countries from development and progress. The Islamic Republic of Iran believes that elimination of terrorism requires a comprehensive campaign by the international community to identify and eradicate political, economic, social and international root causes of the scourge.</p> <p>The Islamic Republic of Iran further believes that fighting terrorism should not affect the legitimate struggle of peoples under colonial domination and foreign occupation in the exercise of their right of self-determination, as enshrined in a variety of international documents, including the Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations</p>	<p>These reservation and interpretive declaration were included in the list following the contribution of Latvia for the 35<sup>th</sup> meeting of the CAHDI.</p> <p><b>Latvia:</b> The Government of the Republic of Latvia has carefully examined the reservation regarding Article 16 paragraph 1 and declarations made by the Islamic Republic of Iran to the International Convention against the Taking Hostages.</p> <p>The Government of the Republic of Latvia considers that the aim of the said International Convention is to prevent and suppress hostage taking by whomever it is committed, and the legitimate struggle of peoples under colonial domination and foreign occupation, as the said rights are recognized by Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, Protocol I Additional to the Geneva Convention of 12 August 1949 could not be deemed to be penalized under the International Convention against the Taking Hostages.</p> <p>However, the Government of the Republic of Latvia is of the opinion that this explanatory declaration is in fact unilateral act that is deemed to limit the scope of the said International Convention and therefore should be regarded as reservation. Thus, this reservation named as an explanatory declaration contradicts the objectives and purposes of the International Convention against the Taking Hostages to prevent hostage taking wherever and by whomever those might be committed.</p> <p>Therefore, the Government of the Republic of Latvia</p>
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		<p>and Cooperation among States in accordance with the Charter of the United Nations, and Article 1 paragraph 4 of the Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts."</p>	<p>is of the opinion that this reservation named as an interpretative declaration made by the Islamic Republic of Iran contradicts the object and purpose of the International Convention and in particular the obligation all States Parties to penalize the offences set forth within the said International Convention by appropriate penalty.</p> <p>Moreover, the Government of the Republic of Latvia recalls Part VI, Article 28 of the Convention setting out that reservations incompatible with the object and purpose of the Convention are not permitted.</p> <p>Therefore, the Government of the Republic of Latvia objects to the aforesaid reservation named as an interpretive declaration regarding non-application of the said International Convention to the legitimate struggle by the peoples under colonial domination or foreign occupation made by the Islamic Republic of Iran to the International Convention against the Taking Hostages.</p>
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## **APPENDIX IV**

### **PRELIMINARY DRAFT AGENDA FOR THE 38th MEETING**

#### **A. INTRODUCTION**

1. Opening of the meeting by the Chair, Mr. Rolf Einar Fife
2. Adoption of the agenda
3. Approval of the report of the 37<sup>th</sup> meeting
4. Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua

#### **B. ONGOING ACTIVITIES OF THE CAHDI**

5. Committee of Ministers' decisions of relevance to the CAHDI's activities including requests of the CAHDI's opinion
6. State immunities:
  - a. State practice and case-law
  - b. UN Convention on Jurisdictional Immunities of States and Their Property
7. Organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs
  - a. Question dealt with by offices of the Legal Adviser which are of wider interest and related to drafting of implementing legislation, foreign litigation, peaceful settlements of disputes, other questions of relevance to the Legal Adviser.
  - b. Updates of the website entries
8. National implementation measures of UN sanctions and respect for human rights
9. Cases before the ECHR involving issues of public international law
10. Peaceful settlement of disputes
11. Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties:
  - List of outstanding reservations and declarations to international Treaties

#### **C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW**

12. The work of the International Law Commission (ILC) and of the Sixth Committee
13. Consideration of current issues of international humanitarian law
14. Developments concerning the International Criminal Court (ICC)
15. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)
16. Follow-up to the outcome document of the 2005 UN World Summit – Advancing the international rule of law

17. Fight against terrorism - Information about work undertaken in the Council of Europe and other international bodies
18. Topical issues of international law

**D. OTHER**

19. Date, place and agenda of the 39<sup>th</sup> meeting of the CAHDI
20. Other business