



Strasbourg, 19/08/09

CAHDI (2009) 8

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

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

MEETING REPORT

Document prepared by the Secretariat of the CAHDI

A. INTRODUCTION

1. Opening of the meeting by the Chair, Mr. Rolf Einar Fife

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 37th 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 report.

2. Adoption of the agenda

2. The Chair informed the Committee that Mr. Serradas Tavares, former legal adviser to the Portuguese Ministry of Foreign Affairs and a Vice-Chair of the CAHDI, had apologised for having to step down from his duties. In consequence of that, a new draft agenda had been circulated and a new item was added, as item 19, referring to the need to elect a new Vice-Chair.

3. The CAHDI thanked Mr. Serradas Tavares for his long-standing contribution to the Committee. It further agreed with an addition and adopted a draft agenda as set out in **Appendix II** to this report.

3. Approval of the report of the 36th meeting

4. The CAHDI adopted the report of its 36th meeting (document CAHDI (2008) 25), taking into account the suggestions made by the Japanese delegation concerning paragraph 197. The Committee instructed the Secretariat to publish the report on the CAHDI's webpage.

4. Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua

5. Mr Manuel Lezertua, Director of Legal Advice and Public International Law, briefed delegations about developments at the Council of Europe since the CAHDI's 36th meeting. His statement is set out in **Appendix III** to this report.

B. ONGOING ACTIVITIES OF THE CAHDI

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

6. The Chair presented document CAHDI(2009)1, concerning Committee of Ministers decisions of relevance to the CAHDI. He asked delegates to take note of the list of decisions and drew attention in particular to the Conclusions of the Conference, which had taken place in conjunction with the previous meeting of the CAHDI in London.

7. The Chair suggested - and the CAHDI agreed - to consider the document CAHDI (2009)1 in its entirety and to take note of all relevant decisions.

8. The Chair referred to the decision of the Committee of Ministers to task the CAHDI with delivering - by 21 March 2009 - an 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 already envisaged, including in Protocol 14, for increasing the

Court's case-processing capacity¹. The Committee would therefore focus its efforts on delivering its opinion on time.

9. The Chair highlighted the benefits of the presence of Mr Böcker, the current Chair of the Reflection Group of the Steering Committee for Human Rights (CDDH).

10. The Chair thanked the Secretariat for preparing a draft opinion and presenting other supporting documents helpful for the CAHDI's consideration of the issue². He further made some recommendations on how to approach and structure the work on this matter.

11. The Chair noted in particular that there was a duty to report back within the deadline on account of the urgency of the matter. The Chair said that it was not for the Committee to decide in any way what action to take, but to produce guidelines on the advisability and feasibility under public international law of putting the procedures into practice. There might be other legal issues which were entirely relevant, but which related to domestic, particularly constitutional, aspects of the law.

12. The Chair proposed a round table discussion on some of the most important issues and underlined that it would be useful to agree that certain parts of the draft, subject to minor changes, would be relatively easy to approve in principle.

13. The key issues were identified by the Chair as follows:

- What would be the requirements for the conclusion or adoption of a subsequent agreement, either an agreement to be applied provisionally or a Protocol 14*bis*?
- What were the requirements with regard to the entry into force – was it possible to envisage an optional protocol and did Protocol 9 to the ECHR provided some worthwhile guidance?
- Was it advisable to go further than what was indicated in the draft with regard to a new additional protocol? Were there other possibilities not envisaged in the draft?
- Was there a possibility of Protocol 14 entering into force as such, with an interpretative statement or a declaration or reservation?

14. Lastly, the Chair added that the conclusions at the end of the draft opinion were designed to recall the importance of Protocol 14 and other measures to improve the effectiveness of the Court.

15. The delegation of the Russian Federation stated that, in principle, Russian Federation could go along with the draft opinion, which had been well prepared and was well balanced. It further dwelled on a group of issues related to the requirement for the adoption and entry into force of an arrangement or agreement subsequent to Protocol 14. There was concern about the so-called 'unanimity' rule referred to in a number of paragraphs of the draft as well as in the conclusions. The Russian Federation queried whether this unanimity rule or principle existed within the Council of Europe. Evidence that it did not exist could be seen, for example, in Protocol 9 to the European Convention on Human Rights, which had entered into force after 10 ratifications, without the unanimous consent of the member States. The Russian delegation stressed that, legally speaking, this principle or rule did not exist and suggested that the CAHDI should, in its draft opinion, allow more flexibility when it came to the adoption of a subsequent agreement or arrangement and its entry into force.

16. The Swiss delegation supported the Chair's proposal on the structure of discussion. It welcomed the statement by the Russian Federation and echoed its position on the so-called unanimity rule, on the grounds of way in which the provisions of Article 25 of the 1969 Vienna

¹ *Note of the Secretariat* : The decision of the Committee of Ministers appears in document CAHDI (2009) 1

² *Note of the Secretariat*: documents CAHDI (2009)2 prov & 5, CAHDI (2009) Inf 2 & 8, CDDH (2008) 014 Add I, AS/JUR (2008) 45

Convention on the Law of Treaties (VCLT) were worded, as well as the practice deriving from them.

17. The Swedish delegation said to be open to different options for solving the problem. It recognised that the suggestion that an Assembly of the Parties or member States be convened to adopt a resolution or decision to that end – as mentioned in the Secretariat's draft – would facilitate achievement of the aim pursued by the Committee of Ministers. Also, Sweden did not see any legal problems with either of the options: a meeting of the Parties or a Protocol 14*bis*. Referring to the conclusions, the Swedish delegation concluded that it would be advisable to have a paper in which the CAHDI made a recommendation including a number of options as well as ruling out certain options, making it clear that they were not feasible or not legally possible.

18. The French delegation highlighted the fundamental difference between the adoption of a text and its entry into force. It insisted on the need, in the current situation, for a consensus among the Parties to the ECHR when either an agreement on the provisional application of Protocol 14 or a new Protocol was adopted. It supported the idea of an entry into force '*à la carte*' and stressed the need for the draft to set out the requirements of the Protocol 14*bis* option in greater detail.

19. The United Kingdom delegation was satisfied with the draft paper, subject to editing changes, except for § 27, which related to unilateral declarations, where the situation was more complex than the draft paper suggested. The delegation agreed with the conclusion that a decision by the Committee of Ministers and the proposal of a 'dynamic interpretation' of the ECHR – as presented by the CDDH – were not appropriate options for dealing with the issue. Provisional application and a Protocol 14*bis* would seem to be the only legally sound options, though both would be time-consuming. It was right to make a distinction between the requirements for the adoption of an arrangement or an agreement and the requirements for its entry into force. For its adoption, the consent of all States Parties to the ECHR was necessary, since it would affect the rights of all Parties under the Convention. There could be more flexibility however when it came to entry into force, certainly in respect of its provisional application. Partial provisional application could be envisaged, so that the Protocol would apply to only some of the existing member States. The example of Protocol 9 showed that an amending Protocol could enter into force with less than unanimous ratification, even though a consensus was necessary in order to adopt such an instrument. Finally, ratification of Protocol 14 would certainly remain the preferred option; if it could be achieved with a declaration or some sort of interpretative statement, this might well be a preferable to any of the other options before the Committee and so should continue to be explored.

20. The Turkish delegation fully agreed that ratification of Protocol 14 should remain the priority of the States Parties and that any formula providing for the provisional application of some of the provisions of Protocol 14 should be in conformity with the principles governing public international law, and in any event be based on the unanimous consent of the States Parties. Turkey fully endorsed the text of the draft opinion, subject to some minor modifications. It pointed out that Protocol 14 did not foresee its provisional application, and that agreement among the States Parties and a separate legal instrument were required. This necessarily meant going through the relevant national ratification procedures once again. With regard to constitutional obstacles, Turkey would be one of the States that would encounter difficulties with provisional application. A new legal instrument of that kind would have to go through the same ratification process as Protocol 14 and the Turkish Constitution did not allow provisional application of a treaty or of some of its provisions. Furthermore, any formula which would lead to differentiation between the member States, creating two or more sets of legal procedures before the Court, would be not only inappropriate and undesirable but also contrary to the basic principles of law.

21. The Estonian delegation said it was open to different solutions and that nothing in the paper posed considerable problems for Estonia. It agreed with the Swiss delegation on the question of ‘unanimity’. Unilateral declarations should be analysed more fully, as they would, for example, probably be applicable if they were preceded by a decision or recommendation made by the Committee of Ministers or at a meeting of the States Parties to the Convention calling upon the States to make unilateral declarations.

22. The Spanish delegation echoed the previous statements underlining the need to keep the entry into force of Protocol 14 as the key priority. It further proposed adding, at the end of the opinion, another conclusion concerning Protocol 14*bis*. With regard to the ‘unanimity’ rule, the Spanish delegate was of the opinion that while the adoption of a decision on provisional application should require unanimity, its implementation could be based on different requirements. The same applied to a Protocol 14*bis*: adoption should require unanimity, while its entry into force could concern a limited number of States.

23. The Irish delegation agreed that the overriding objective should remain full ratification of Protocol 14. It was important to rule out an evolving interpretation as well as the option of using a Committee of Ministers resolution as such. With regard to ‘unanimity’, Ireland agreed with France and other delegations which distinguished between adoption and entry into force. While adoption required consensus, entry into force could be ‘à la carte’ – and take place either through provisional application or with a Protocol 14*bis*. Ireland had a slight preference for provisional application, but Protocol 14*bis* would still be a viable option.

24. The Greek delegation said that the solutions of having a Committee of Ministers resolution and unilateral declarations by each State were rightly rejected in the draft. The draft was also right in its analysis of Article 25 of the VCLT, including its interpretation of the “negotiating States”, in that the consent of all negotiating States was required for the entry into force of that instrument. This would apply if the provisional application of Protocol 14 was the preferred option, in which case a number of States would once more have to seek approval from their national parliaments. Greece would, however, have to try to work out, by a process of interpretation, how, or indeed whether, the Protocol could be provisionally applied since there was no provision to that effect in Greek Constitution. The delay caused by having to seek parliamentary approval would mean that provisional application would almost be tantamount to having a new Protocol, albeit with a smaller or even considerably smaller number of States Parties. As for whether it was possible for all the States to agree on a collective declaration on provisional application, in the form of some kind of informal agreement, the Greek delegation acknowledged that this was an attractive solution but said it did not change the fact that some States would still require parliamentary approval. The document tried to draw a distinction between a treaty and an agreement, suggesting that the latter would not require parliamentary approval. In the view of the Greek delegation, this was not entirely convincing and the paragraph would need to be amended to reflect the terminology and substance of public international law.

25. The Finnish delegation agreed by and large with the aforesaid legal analysis and believed that the CAHDI could come up with a useful solution for the Committee of Ministers. It stressed that the outcome of the meeting would inevitably be a legal instrument. Subject to some modifications, Finland agreed with the main substance of the draft opinion. As for the time frame, it stressed that the Committee should make a concerted effort to approve an opinion during the current session according to the request of the Committee of Ministers.

26. The Chair invited Mr. Roland Böcker (CDDH) to contribute to the discussion and express his views on the matter.

27. Mr. Böcker thanked the CAHDI for inviting him to participate in the meeting in his capacity as Chair of the CDDH reflection group, which was composed of representatives of

18 member States of the Council of Europe and primarily tasked with seeking ways of alleviating the Court's workload. He stressed that this exercise was taking place in the context of the alarming backlog of the European Court of Human Rights, which had been building up over the last decade and was precisely why Protocol 14 had been conceived in the early years of the millennium. The Court now had a total backlog of 100,000 cases.

28. Protocol 14 had been signed by all 47 States and ratified by 46 States, which meant that the overwhelming majority of member States and their parliaments had approved each and every provision of Protocol 14. Accordingly, it should be asked whether parliaments could and why they should become involved in re-approving the provisions in question.

29. Mr. Böcker stressed that the relevant provisions of Protocol 14 were of an organisational nature, and concerned solely the number of judges dealing with certain cases. They did not assign any new powers to the Court, nor did they take any powers away from the Court. They concerned the shifting of power from committees of three judges to a single judge – possibly to the detriment of the applicant – and there was a shift of power from a chamber of seven to a committee of three, which could declare cases to be well-founded – which might be considered to be to the detriment of member States. Thus a balance could be perceived in this respect.

30. Over the years, the sense of urgency had increased, at least in the CDDH. At the request of the Committee of Ministers, the CDDH had prepared an interim report or preliminary opinion identifying six possible arrangements.

31. Mr. Böcker also drew attention to a report by the Dutch Advisory Committee on International Law - composed of professors of international law and other experts in the Netherlands - which recommended three possible arrangements, namely a provisional application of a part of Protocol 14, a Protocol 14*bis* and a decision of the Committee of Ministers. He drew attention to the last option, whilst acknowledging that it had received little or no support from States during the discussions. The option that had elicited the greatest support in the reflection group was a Protocol 14*bis* including a provision on its provisional application.

32. Coming to the CAHDI draft, Mr Böcker said that more emphasis might be placed on the arrangements for a Protocol 14*bis*, and on the questions of its provisional application and limited entry into force (i.e. with less than the full complement of 47 member States). He also drew attention to the conclusions and requested that the CAHDI list the various options that had been put forward even if they had met with no support. He took the point that the CAHDI should express a preference even though this did not mean ruling out the other options.

33. The Chair thanked Mr Böcker for his helpful reminders and suggestions.

34. The Secretariat highlighted that the draft text did not provide a proper analysis of the CDDH's proposal that the Court amend its own Rules in order to allow the provisional application of certain provisions of Protocol 14. The Secretariat then provided the Committee with a redrafted version of paragraph 18 of the draft opinion³.

35. The Secretariat further pointed out that whilst the report stipulated that unanimity was necessary for adopting decisions, in fact the general rule was one of qualified majority except in specific exceptional circumstances. In certain cases a simple majority was sufficient. Under Article 20 of the Statute of the Council of Europe, there was therefore no unanimity rule or principle. The qualified majority rule also applies to the adoption of a convention.

³ In order to make it easier to read, the numbering of the paragraphs of the CAHDI's opinion to which this document refers is the numbering of the final version of the CAHDI's opinion (document CAHDI(2009)2).

36. The Chair thanked the Secretariat and pointed out that the latest point was not crucial to the draft opinion and related specifically to the work in the Committee of Ministers. The Committee decided to delete the paragraph at stake.

37. The German delegation agreed with other delegations that, whilst a consensus might be needed for the adoption of an instrument or of a similar decision, entry into force could take place '*à la carte*'. Whilst in the case of Germany provisional application of Protocol 14 or some of its rules would be possible without involving Parliament, things would be different if there were a Protocol 14*bis*. The German delegation was very grateful for the constructive approach adopted by the Russian delegation and other delegations and noted that two possible approaches had been acknowledged by all the speakers. One would be provisional application with a consensus requirement for its adoption only and not for entry into force and the second would be a Protocol 14*bis*. Lastly, the German delegation suggested using both approaches in order to overcome the obstacles encountered by delegations.

38. The Hungarian delegation drew attention to the Chair's introductory remark to the effect that the Committee did not need to decide on an option but had to provide advice on the advisability and feasibility of the options. This delegation underlined a practical concern in this respect. In assessing the options, the Committee should take into consideration two factors: first, the establishment of different procedures within the Court might cause difficulties and, second, the equal rights of petitioners should be preserved. In this connection, the delegation recalled the provisions of Article 14 of the ECHR, prohibiting discrimination.

39. The Netherlands delegation was convinced of the absolute need to resolve the issue of Protocol 14 and for this reason the Netherlands government had commissioned the Dutch Advisory Committee on International Law to produce a report. It was necessary to come up with a solution which was legally sound – not one which merely appeared to be sound and might later cause problems when cases started coming before the Court. At the same time, it should be clear that the ultimate aim was the entry into force of Protocol 14 itself. With regard to the draft opinion, it was pointed out that there were two issues which required further debate. Firstly, one paragraph could be refined in the light of current thinking on implied powers and, secondly, there should be more about the Protocol 14*bis* option. It would be important to bear in mind that there might be numerous solutions but at the same time the CAHDI need to be practical and there seemed to be little support for a number of the options, including unilateral declarations. The delegation could go along with both the provisional application scenario and the Protocol 14*bis* scenario, as the Netherlands had no constitutional issues at all with provisional application. As for how to decide between these solutions, the Netherlands delegation expressed its gratitude for the Secretariat's clarification of the 'unanimity' question and was very much in favour of the idea of an entry into force '*à la carte*'.

40. The delegation of the Czech Republic stressed that a solution for the Court needed to be found as soon as possible and supported the idea of a Protocol 14*bis*

41. The Belgian delegation approved the draft text on the whole, subject to some modifications. Neither option, provisional application or a Protocol 14*bis*, would encounter any constitutional problems in Belgium. Nor did the delegation have anything against the possibility of a common declaration of the Parties providing for the provisional application of certain provisions of Protocol 14. With regard to the unanimity issue, the delegation echoed the French statement. It also thanked the Russian delegation for its positive statement.

42. In light of the broadly positive response received to the questions asked by the Chair and the support expressed to a number of elements in the draft text, and taking into account

the limited time available to refine the draft, the Chair suggested - and the CAHDI agreed – to structure further work according to clusters of issues identified in the discussion. A number of contact persons among CAHDI members were on this basis asked to facilitate further discussion of different sections of the draft opinion. The delegation of Germany was asked to merge the proposals stemming from the various contact persons and present them to the Plenary.

43. The CAHDI agreed that the conclusions should be addressed after the Committee had discussed the revised draft text.

44. Following the work of the contact persons among the delegations, the Chair opened the discussion on the revised draft opinion and conclusions.

45. The German delegation, who had led the co-ordination between the contact persons, gave an overview of the paragraphs where deletions or amendments had been made in the revised draft opinion.

46. Following a remark by the Romanian delegation, the French delegation explained the wording of paragraph 20, specifying that the words “allowing for” would permit States that so wished not to apply the new Protocol provisionally from the time of its signature but to apply it only once it came into force.

47. The Committee adopted paragraphs 1 to 26.

48. The Portuguese delegation was concerned that paragraph 27 did not acknowledge the fact that some member states would have constitutional difficulties with provisional application.

49. The Chair suggested that this point had already been made in the first sentence of the paragraph at issue and said that this was a key issue for a number of delegations.

50. The Belgian delegation asked for explanations of the deletion of the last sentence of former paragraph 27 which read, “*Accordingly, any problems met by member states in such cases would raise issues of constitutional law rather than public international law*”.

51. The Greek delegation explained that the focal point had thought that it was obvious that these issues were ones that concerned domestic constitutional law and not public international law.

52. The Committee adopted paragraphs 27 and 28.

53. Following a proposal from the Netherlands delegation, the German delegation made some suggestions for rearranging the text so that the paragraphs read in a more logical way.

54. The Netherlands delegation stressed the need to see provisional application and Protocol 14*bis* given equal attention. The Committee supported this view.

55. The Committee adopted paragraphs 29 to 32.

56. In paragraph 33, the Serbian delegation suggested adding the words “*the meeting of*” after the words “*to do so within*”.

57. The Serbian proposal was adopted by the Committee, along with paragraph 33 in its entirety.

58. The Committee adopted paragraph 34.
59. The Netherlands delegation observed that paragraph 35 was superfluous as the idea was already expressed in paragraph 20.
60. The delegation of Austria specified that paragraph 20 referred to Protocol 14*bis* whilst paragraph 35 dealt with an agreement on provisional application.
61. Paragraph 35 was adopted by the Committee, as well as paragraphs 36 to 41.
62. The Committee agreed to delete two paragraphs which went into too much detail and to reorganise the last four paragraphs.
63. The Committee then adopted paragraphs 42 to 45.
64. The Committee went on to consider the revised draft conclusions of its opinion.
65. The Netherlands delegation suggested adding the words “*or reservations*” after the words “*interpretative declarations*”.
66. Following a German proposal, the Committee approved minor changes to the drafting of the second paragraph of Item 1 and then adopted Item 1 of the Conclusions.
67. With regard to Item 2, the delegation of the Czech Republic suggested replacing the word “*declaration*” with the word “*agreement*”. This was agreed.
68. The United Kingdom delegation suggested deleting the final sentence of each of the bullet points of Item 2. As one delegation was opposed to this proposal, a new wording was agreed by the Committee.
69. Following a proposal from the Georgian, Netherlands and Serbian delegations, the Committee agreed to delete a footnote and replace the words “*negotiating States*” by the words “*States Parties to the European Convention on Human Rights*”.
70. Following a statement by Hungary, the Chair proposed a new wording of the second sentence of Item 2, to which the Committee agreed.
71. The Spanish delegation proposed redrafting the second bullet point, replacing the words “*authorise the Court to apply provisionally*” by the words “*decide on the provisional application of*”. The Committee agreed to this.
72. The United Kingdom delegation pointed out that “*awaiting*” should be replaced by “*pending*”. Item 2 was then adopted by the Committee.
73. As for item 3, the United Kingdom delegation was of the opinion that the last sentence of paragraph 3 did not reflect the main body of the opinion and suggested that it be reworded in a much more straightforward way. The delegate proposed the following phrasing: “*The CAHDI is of the opinion that these proposals are not compatible with public international law and do not offer sufficiently sound legal grounds for the implementation of the desired solutions.*”
74. Following a statement by the Netherlands delegation, the Chair proposed a further change to the version proposed by the United Kingdom, which would involve replacing the words “*are not compatible with*” by the words “*raise serious questions of compatibility with*” and adding “*/or*” after “*and*”. This was agreed.

75. The Spanish delegation proposed keeping the 4th item, which had been in the preliminary draft conclusions. There were no objections to reintroducing this item.

76. The CAHDI then adopted the final version of its opinion, including its final conclusions, as set out in document CAHDI (2009) 2. It instructed the Secretariat to transmit the opinion to the Committee of Ministers. The Chair thanked the Secretariat for its preparatory work on a draft. The Chair commended all participants for the sustained efforts they had devoted to the analysis and refinement of the text, including in particular the contact persons and the German delegation for their contributions to the drafting process.

The Chair asked - and the CAHDI agreed - to allow the Chair and the Secretariat to play an editorial role, if necessary, on the clear understanding that there would not be any substantive changes to the adopted opinion.

6. Immunities of States and international organisations

a. State practice and case law

b. UN Convention on jurisdictional Immunities of States and Their Property

77. The observer from Israel presented a new contribution to the database and encouraged states to make use of it. The contribution concerned the new domestic legislation drafted along the lines of the UN Convention.

78. The delegation of the Russian Federation presented an update to its contribution to the database.

79. The observer from the United States of America drew attention to an important case related to the 9/11 attacks, involving officials from Saudi Arabia,. The Supreme Court had asked the Government for its opinion as to whether the Court should review the case. The observer would keep the CAHDI informed.

80. The observer from Interpol drew attention to the problem of “red notices” against State officials and the problems the Organisation encountered in this context with the immunities issue. The observer expressed interest in knowing States' positions on this problem.

81. The observer from Japan informed the Committee that a draft law proposing ratification of the UN Convention had been tabled in Parliament.

82. The Swedish delegation informed the Committee of the finalisation of a Ratification Bill which was about to be tabled in Parliament. Assuming the Bill was passed, ratification was expected to take place before the end of 2009.

83. The delegation of the Czech Republic informed the Committee that ratification of the Convention required changes in Czech domestic legislation and that this process, which was under way, would be based on the restrictive immunity doctrine.

7. Organisation and functions of the Office of the Legal Adviser to the Ministry for Foreign Affairs (OLA)

84. The observer from Mexico expressed interest in having a more practical debate under this item. He encouraged other delegations to describe the specific features of their OLAs.

85. The Moldovan delegation presented its new contribution to the database.

8. National measures to implement UN sanctions and respect for human rights

86. The observer from Canada mentioned a number of ongoing cases pending before the Canadian courts and related to the implementation of the regime sanctions under UNSC Resolution 1267 (1999). The observer highlighted, in particular, cases concerning exemption from sanctions on the grounds of the need to safeguard the subsistence level of the persons who had been sanctioned.

87. The observer from the United States of America stressed the importance of the targeted sanctions system, and expressed concern about the various challenges to be addressed, which could affect the collective implementation of the sanctions.

88. The representative of the United Nations Analytical Support and Sanctions Monitoring Team for Al-Qaida and the Taliban Sanction Committee described the developments that had occurred since the previous meeting, focusing on the implementation of the UNSC Resolution 1822 (2008).

89. The Romanian delegation informed the Committee that it would be hosting a UNODC workshop in Bucharest on 1 and 2 April 2009 on the domestic legal implications of UNSC Resolutions and Financial Sanctions against Terrorism.

90. The observer from the European Commission presented an update of the Commission's contribution to the database, including developments related to the Kadi and Al Barakaat joint cases.

9. Cases before the ECHR involving issues of public international law

91. The United Kingdom delegation informed the CAHDI about three cases pending before the Court and related to States' obligations under the ECHR in respect of overseas activities. The cases in question concerned Iraq.

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

92. The Chair presented the relevant documents to the Committee, i.e. the document CAHDI(2009)3 and Recommendation CM/Rec(2008)9.

93. With regard to follow-up to Committee of Ministers Recommendation CM/Rec(2008)9, the United Kingdom delegation highlighted the importance and usefulness of the lists of arbitrators and conciliators and encouraged other delegations to keep them updated and to follow this item very closely.

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 concerning international treaties

94. The Chair presented relevant documents under this item (CAHDI (2009) 4& Add) and opened the floor for discussion.

95. With regard to the reservation made at the time of signature by El Salvador to the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, which had also been considered at the CAHDI's previous two meetings, the German delegation confirmed that Germany was in the process of ratifying the Convention and would, when the time came, object to the reservation entered by El Salvador.

96. The delegations from Sweden and the Netherlands informed the CAHDI that they had objected to this reservation in January 2009.

97. The Chair pointed out that Pakistan had amended the reservation it had made to the International Covenant on Economic, Social and Cultural Rights.

98. There were no comments from the delegations concerning the declaration Turkey had made on signing the International Convention for the Suppression of Acts of Nuclear Terrorism, and the Committee agreed to remove this reservation from the list.

99. With regard to the declaration by Singapore relating to Article 7 (1) of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the United Kingdom delegation informed the Committee that it was still considering objecting to it.

100. The Netherlands delegation informed the CAHDI that it was considering objecting to this declaration as well.

101. The CAHDI had no questions or comments on the reservations and declarations concerning Council of Europe Conventions.

102. A table summarising the positions of delegations on this sub-item is set out in **Appendix IV** to this report.

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

103. The CAHDI 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 2001.⁴ The Committee agreed that this list had been updated since its last transmission to the Committee of Ministers⁵ and instructed the Secretariat to transmit this new version to the Committee of Ministers. The aforesaid list is set out in **Appendix V** to the present report.

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

12. Consideration of current international humanitarian law issues

104. The Norwegian and Irish delegations strongly encouraged CAHDI member and observers to sign and ratify the Convention on Cluster Munitions, which was the result of the Oslo Process.

105. The observer from the International Committee of the Red Cross (ICRC) informed the CAHDI on recent activities of the ICRC. The representative of the ICRC welcomed the

⁴ Document CM/Del/Dec (2001) 765bis/2.1

⁵ document CAHDI (2004) 22

opening for signature of the Convention on Cluster Munitions and echoed Norway in encouraging States to sign and ratify this instrument at their earliest convenience. Recent developments regarding the Arms Trade Treaty were also described and the importance of having a strong convention on arms control was stressed. The CAHDI was also informed on the celebration of the 60th anniversary of the Geneva Conventions as well as the anniversary of the battle of Solferino.

106. Furthermore, it was stated that the ICRC was closely following the review of the Statute of the International Criminal Court. With regard to the other international criminal tribunals, the ICRC was considering solutions for persons who had been convicted and had already served their sentences.

107. Finally the CAHDI took note that the final document of the ICRC project on the notion of "Direct Participation in Hostilities" under International Humanitarian Law would be published in the next issue of the International Review of the Red Cross, which was due out in June 2009. A booklet accompanied by a DVD, would also be published separately with all the proceedings, including expert reports. This information would also be available on the ICRC website. Regarding the launching of this document, no date had been set for the time being.

108. The German delegation expressed some concerns regarding the study on the notion of "Direct Participation in Hostilities" under International Humanitarian Law. Although it had been prepared with a number of experts, it had not been discussed, co-ordinated or taken up in any other way with States. The delegation considered that the necessary input from States had not therefore been incorporated into this process.

109. The observer from Canada also commented on the Direct Participation to Hostilities issue and hoped that the final publication would reflect the complexity of the problems.

110. The observer from the United States of America informed the CAHDI about the recent executive orders adopted by the US Presidency with regard to the closure of Guantanamo.

13. Developments concerning the International Criminal Court (ICC)

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

111. The CAHDI took note of recent developments relating to the international criminal tribunals, concerning, in particular, the ICC and the review of the Rome Statute.

15. Follow-up to the international conference "International Courts and Tribunals – The Challenges ahead" (London, 6-7 October 2008)

112. The Chair referred to the conclusions of the Conference and opened the floor for any input from delegates under this item.

113. The United Kingdom delegation said that it had been honoured to host the conference and extended its thanks to those who had attended. It hoped it would produce beneficial results in the future.

114. The Slovenian delegation informed the Committee that Slovenia was considering organising an expert seminar on judgements of international courts and tribunals and their contribution to the rule of law at national and international level. This event would be organised in the context of Slovenian Chairmanship of the Committee of Ministers of the Council of Europe as respect for the rule of law at national and international level would be one of the priorities of the Slovenian Chairmanship. The seminar would be designed to shed

light on practical aspects of the honouring of the relevant commitments resulting from judgements of international courts and tribunals. In this regard, the seminar would focus firstly on the multiple jurisdiction of international courts and tribunals and co-operation between them as well as on different kinds of multi-level judicial protection for human rights. The second session would deal with the effects of judgements of international courts and tribunals at national level. Accordingly, the aim would be to discuss best national practices with regard to the honouring of international commitments and ways of avoiding clone cases before international judicial institutions. The central part of the seminar would be the debate on international justice and the rule of law, with reference to the cross-fertilisation of international courts and the influence of national and regional justice systems on the international rule of law. A significant part of this session would be devoted to the role of the European Court of Human Rights and its reform and how it could help to strengthen the rule of law. The expert seminar would be scheduled for late September 2009.

16. Follow-up to the Outcome Document of the 2005 UN World Summit - Advancing the international rule of law

115. The Chair recalled that in December 2008 the Ministers' Deputies had recommended, to transmit to the CAHDI the document entitled 'The Council of Europe and the rule of law - an overview' for information and possible comment by the end of March 2009..

116. The Secretariat pointed out that the document already took into account the CAHDI's contribution at the preparatory stage, which had been prepared by the Secretariat in consultation with the Chair. Thus, the document was presented on the agenda of the meeting for information only.

117. The CAHDI agreed to pursue consideration of this matter at its next meeting.

17. Fight against terrorism - information about work undertaken in the Council of Europe and other international bodies

118. The Secretariat informed the Committee about the recent activities undertaken at the Council of Europe in connection with counter-terrorism issues and referred in particular to the work of the CoE Committee of Experts on Terrorism (CODEXTER), the finalisation of the amendment process of the EU Council Framework Decision on Combating Terrorism in the light of the provisions of the Council of Europe Convention on the Prevention of Terrorism and the forthcoming Consultation of the Parties to the aforesaid Council of Europe Convention

119. The CAHDI stressed the importance of promoting the Council of Europe counter-terrorism conventions and called upon member and observer States to sign and ratify the relevant Council of Europe instruments.

18. Topical international law issues

120. The Danish delegation raised an important and preoccupying issue of piracy and informed the CAHDI that the Contact Group on Piracy off the Coast of Somalia (CGPCS) had been established in New York on 14 January 2009. Four working groups had been set up at the meeting, including one on legal issues, which was chaired by Denmark. This working group had held its first meeting in Vienna on 5 March, at the Headquarters of the UNODC, which acted as its secretariat. This first meeting had focused almost entirely on how to prosecute suspected pirates and ensure that, in the various countries' domestic law, piracy was a criminal offence and the necessary jurisdiction was in place. The group had also discussed at length agreements concerning prosecution by other States, especially States in

the region, and touched briefly on the issue of an international mechanism, which would have to be discussed further in the future. The Danish chairmanship of the Group had produced a number of recommendations, which had been approved by the Contact Group when it had met for the second time, in Cairo in March. It had been decided at the meeting that the Contact Group would meet once more before the summer (a date had yet to be set). Therefore, the four working groups would also have to meet before the summer and the working group on legal issues would probably meet in the second week of May.

121. Following the request from Swiss delegation, the Danish delegation said that the working group was indeed open-ended, as the Chairmanship was entitled to invite any interested States to attend. However, such invitation would not imply an automatic membership of a State in the Contact Group.

122. The delegation of Denmark referred further to the Copenhagen Process on the handling of detainees in international military operations and informed the Committee that the next meeting of participating States and organisations would take place in Copenhagen on 15 and 16 June 2009. In conclusion, the delegation stated that it would continue to inform the CAHDI on the developments regarding both processes.

123. The observer from Japan informed the CAHDI on developments in Japan regarding the issue of piracy. The problem Japan faced was that practically no country had enacted a law specifically focusing on piracy after the entry into force of the UN Convention on the Law of the Sea (UNCLOS). A number of countries, including countries that were members of the CAHDI, had laws on piracy which dated back to 17th century and were subsequently of no use to Japan. Some countries had even recently even abolished piracy law. The UNCLOS provisions themselves lacked clarity and could not be used in domestic criminal law as they stood.

124. In March, Japanese government had adopted a bill on anti-piracy measures and forwarded it to the Parliament with a view of its adoption in the nearest future. The purpose of the bill was to make it clear that Japan would not tolerate piracy acts as well as to give the Japanese courts a universal jurisdiction over acts of piracy. The law in question would allow Japan to capture pirates even if there was no connection between the acts of piracy and Japan or Japanese nationals. However, the bill would not deal with the problem of surrender or extradition or action after the arrest of the pirates and these matters would still have to be addressed by foreign policy. The delegation stated that it was willing to share an excerpt from the law with other CAHDI members and observers and transmitted its electronic version to CAHDI's Secretariat.

D. OTHERS

19. Election of the Vice-Chair

125. The Chair referred to the resignation of Mr Luis Serradas Tavares (Portugal) from his duties as Vice-Chair of the Committee and recalled the statutory regulations for elections presented in document CAHDI (2009) 6. Further to a proposal from the Belgian delegation, endorsed by the Portuguese delegation, the CAHDI elected Ms Edwige Belliard (France) as Vice-Chair of the Committee. Her term of office as Vice-Chair would expire on 31 December 2009.

20. Date, place and agenda of the 38th meeting of the CAHDI

126. The CAHDI decided to hold its next meeting in Strasbourg on 10 and 11 September 2009 and adopted the preliminary draft agenda, as set out in **Appendix VI** to the present report.

21. Other business

127. The Romanian delegation commented on the recent decision of the International Court of Justice in the case of Romania v. Ukraine concerning maritime delimitation in the Black Sea. Romania commended with the decision of the ICJ and wanted to emphasise that the case exclusively concerned the issue of maritime delimitation and did not concern or call into question sovereignty over the Serpent Island. The decision of the ICJ followed the international law principles applicable in such maritime delimitation cases and the long-standing practice of the Court in that field. The decision was directly applicable and both parties had committed themselves to applying it.

- **List of items discussed and decisions taken**

128. The Committee adopted the abridged report of the meeting, as it appears in **Appendix VII** to this report.

APPENDIX I

LIST OF PARTICIPANTS

ALBANIA/ALBANIE:

Mme Ledia HYSI, Director of Legal Affairs and International Law Department, Ministry of Foreign Affairs

ANDORRA/ANDORRE: -

ARMENIA/ARMENIE:

Mrs Narine MATOSYAN, Second Secretary of the Legal Department, Ministry of Foreign Affairs

AUSTRIA/AUTRICHE:

Ambassador Ferdinand TRAUTTMANSDORFF, Legal Adviser, Austrian Federal Ministry for European and International Affairs

AZERBAIJAN/AZERBAIDJAN:

Mr Murad NAJAFBAYLI, Head of the International Law and Treaties Department, Ministry of Foreign Affairs

BELGIUM/BELGIQUE:

M. Paul RIETJENS, Directeur général, Direction générale des Affaires juridiques, Service public fédéral des Affaires Etrangères

M. Patrick DURAY, Conseiller Général, Direction du droit international public, Service public fédéral des Affaires Etrangères

BOSNIA AND HERZEGOVINA/BOSNIE-HERZEGOVINE: -

BULGARIA/BULGARIE:

Mr Rayno RADONOV, Minister Plenipotentiary, Head of Division, Public International Law, International Law Department, Ministry of Foreign Affairs

CROATIA/CROATIE: -

CYPRUS/CHYPRE:

Mrs Mary-Ann STAVRINIDES, Senior Counsel of the Republic, Law Office

CZECH REPUBLIC/REPUBLIQUE TCHEQUE:

Mr Milan DUFEK, Counsellor-Minister, International Law Department, Ministry of Foreign Affairs

Mr Milan BERÁNEK, Head of Treaty Section, International Law Department, Ministry of Foreign Affairs

Mr Petr VÁLEK, International Law Department, Ministry of Foreign Affairs

Mr Philip BITTNER, International Law Department, Ministry of Foreign Affairs

DENMARK/DANEMARK:

Ambassador Thomas WINKLER, Under-Secretary for Legal Affairs, Ministry of Foreign Affairs

Ms Louise DE BRASS, Head of Section, Department of International Law, Ministry of Foreign Affairs

ESTONIA/ESTONIE:

Mrs Maris KUURBERG, Government Agent before the European Court of Human Rights, Human Rights Division, Legal Department, Ministry of Foreign Affairs

FINLAND/FINLANDE:

Mr Marcus LAURENT, Director General Legal Service, Ministry for Foreign Affairs

Ms Marja LEHTO, Director, Legal Service, Ministry for Foreign Affairs

FRANCE:

Mme Edwige BELLARD, Directeur des affaires juridiques, Ministère des Affaires Etrangères

M. Antoine OLLIVIER, Rédacteur, Direction des Affaires Juridiques, Ministère des Affaires Etrangères

GEORGIA/GEORGIE:

Mr Salome IMNADZE, Ministry of Foreign Affairs of Georgia, International Legal Department

M. Mamuka JGENTI, Deputy Permanent Representative of Georgia to the Council of Europe, Permanent Representation of Georgia to the Council of Europe

GERMANY/ALLEMAGNE:

Mr Georg WITSCHER, Ambassador, Director General for Legal Affairs, Federal Foreign Office

Mr Christophe EICK, Head of Division 500, Federal Foreign Office

GREECE/GRECE:

Mrs Phani DASCALOPOULOU-LIVADA, Legal Adviser, Head of the Section of Public International Law, Ministry for Foreign Affairs

Mr Michael STELLAKATOS-LOVERDOS, Deputy Legal Adviser, Legal Department, Ministry of Foreign Affairs

HUNGARY/HONGRIE:

Dr István HORVÁTH, Legal Adviser, Department of International and EU Public Law, Ministry for Foreign Affairs

ICELAND/ISLANDE:

Mrs Sigríður EYSTEINSDÓTTIR, Legal Officer, Ministry of Foreign Affairs

IRELAND/IRLANDE:

Mr James KINGSTON, Department of Foreign Affairs

ITALY/ITALIE:

M. Nicola MANDUZIO, Legal Counsellor, Ministry of Foreign Affairs

M. Paolo PALCHETTI, Professeur de droit international, Université de Macerata

LATVIA/LETTONIE:

Ms Irina MANGULE, Director of the Legal Department, Ministry of Foreign Affairs

LIECHTENSTEIN:

Ms Isabel FROMMELT, Diplomatic Officer, Office for Foreign Affairs

LITHUANIA/LITHUANIE:

Mr Aleksas DAMBRAUSKAS, Third Secretary, International Treaties Division, Law and International Treaties Department, Ministry for Foreign Affairs

LUXEMBOURG:

M. Ronald MAYER, Ambassadeur Extraordinaire et Plénipotentiaire, Représentant Permanent du Luxembourg auprès du Conseil de l'Europe

MALTA/MALTE:

Mrs Marvic SCIBERRAS ABDILLA, Senior Lawyer, Office of the Attorney General

MOLDOVA:

Mrs Elena ECHIM, Head of International Law Department, Ministry of Foreign Affairs and European Integration

MONACO:

M. Bernard GASTAUD, Conseiller pour les Affaires Juridiques et Internationales, Ministère d'Etat

MONTENEGRO :

Ms Dragana LAKOVIC, Councillor, International Law Department, Ministry of Foreign Affairs

:

NETHERLANDS/PAYS-BAS:

Mrs Liesbeth LIJNZAAD, Head of the International Law Division, Ministry of Foreign Affairs

NORWAY/NORVEGE:

Mr Rolf Einar FIFE, Director General, Department for Legal Affairs, Ministry of Foreign Affairs **(Chair)**

Mr Jo HOVIK, Senior Adviser, Section for International Humanitarian and Criminal Law, Ministry of Foreign Affairs

POLAND/POLOGNE:

Mr Remigiusz HENCZEL, Director, Legal and Treaty Department, Ministry for Foreign Affairs

PORTUGAL:

Mr Miguel DE SERPA SOARES, Legal Adviser, Director of the Department of Legal Affairs, Ministry of Foreign Affairs

Ms Inês MATOS, Legal Counsellor, Department of Legal Affairs, Ministry of Foreign Affairs

ROMANIA/ROUMANIE:

Ms Alina OROSAN, Deputy Director, International Law and Treaties Department, Ministry of Foreign Affairs

RUSSIAN FEDERATION/FEDERATION DE RUSSIE:

Mr Roman KOLODKIN, Director, Legal Department, Ministry of Foreign Affairs

Ms Sofia SARENKOVA, Second Secretary, Legal Department, Ministry of Foreign Affairs

SAN-MARINO/SAINT-MARIN: –**SERBIA / SERBIE**

Ms Sanja MILINKOVIĆ, Ambassador, Director, Department for International Legal Affairs, Ministry of Foreign Affairs

SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE:

Mr Milan KOLLÁR, Director General for Legal Affairs, Ministry for Foreign Affairs

SLOVENIA/SLOVENIE:

Mr Urška KRAMBERGER KOROŠEC, I. Secretary, International Law Department, Ministry for Foreign Affairs

Ms Danijela HORVAT, III. Secretary, International Law Department, Ministry of Foreign Affairs

SPAIN/ESPAGNE:

Mme Concepción ESCOBAR HERNÁNDEZ, Professeur de droit international, Chef du Département Juridique International, Ministère des Affaires Etrangères

M. Maximiliano BERNAD ALVAREZ DE EULATE, Professeur de Droit international public et d'Institutions et droit communautaire européens, Université de Zaragoza

SWEDEN/SUEDE:

Mr Carl Henrik EHRENKRONA, Director General for Legal Affairs, Ministry for Foreign Affairs

Ms Jenny WESSBLADH HARD, Desk Officer, International Law, Human Rights and Treaty Law Department, Ministry for Foreign Affairs

SWITZERLAND/SUISSE:

M. l'Ambassadeur Paul SEGER, Directeur, Jurisconsulte, Direction du droit international public, Département fédéral des affaires étrangères

Mme Katrin WEILHAMMER, Juriste, Direction du droit international public, Département fédéral des affaires étrangères

"THE FORMER REPUBLIC YUGOSLAV OF MACEDONIA"/"L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE":

Ms Elizabeta GJORGJIEVA, Director, International Law Directorate, Ministry of Foreign Affairs

TURKEY/TURQUIE:

Mr Omer ALTUG, Ambassador, Chief Legal Adviser, Ministry of Foreign Affairs

M. Gürçay SEKER, Conseiller Juridique, Représentation Permanente de la Turquie auprès du Conseil de l'Europe

UKRAINE : -**UNITED KINGDOM/ROYAUME-UNI:**

Mr Christopher WHOMERSLEY, Deputy Legal Adviser, Foreign and Commonwealth Office

Ms Joanne NEENAN, Assistant Legal Adviser, Foreign and Commonwealth Office

Mr Derek WALTON, Legal Counsellor, Foreign and Commonwealth Office

EUROPEAN UNION / UNION EUROPEENNE**EUROPEAN COMMISSION / COMMISSION EUROPEENNE**

M. Patrick HETSCH, Principal Legal Adviser, Member of the Legal Service External Relations Team

Mr Tobias KING

COUNCIL OF THE EUROPEAN UNION / CONSEIL DE L'UNION EUROPEENNE

Mr Jeno CZUCZAI, Principal Jurist, Legal Service, Council of the European Union

OBSERVERS / OBSERVATEURS**CANADA:**

Mr Alan KESSEL, Legal Adviser, Foreign Affairs and international Trade

HOLY SEE/SAINT-SIEGE:

Rév. Frère Olivier POQUILLON, o.p. Délégué Permanent de l'Ordre des Dominicains auprès des Nations Unies

JAPAN/JAPON:

Mr Masataka OKANO, Director for International Legal Affairs, Ministry of Foreign Affairs

Mr Akira TAKANO, Consul, Consulate General of Japan

MEXICO/MEXIQUE:

Mr Victor M. URIBE, Deputy Legal Adviser, Ministry of Foreign Affairs

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE:

Ms Joan E. DONOGHUE, Acting Legal Adviser, US Department of State

Mr Todd BUCHWALD, Assistant Legal Adviser for United Nations Affairs, Department of State

ISRAEL/ISRAËL:

Mr Ehud KEINAN, Legal Adviser, Ministry of Foreign Affairs

AUSTRALIA/AUSTRALIE:

Ms Melissa O'ROURKE, First Secretary, Australian Embassy and Mission to the European Communities, BRUSSELS

UNITED NATIONS/NATIONS UNIES:

Mr Brian WILSON, Legal Expert, Al-Qaida/Taliban Monitoring Team

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT/ORGANISATION DE COOPERATION ET DE DEVELOPPEMENT ECONOMIQUES (OCDE): Apologised/Excusé**EUROPEAN ORGANISATION FOR NUCLEAR RESEARCH (CERN)/ORGANISATION EUROPEENNE POUR LA RECHERCHE NUCLEAIRE (CERN):** Apologised / Excusé**THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW/CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE:** Apologised/Excusé**INTERPOL:**

Mr Yaron GOTTlieb, Legal Officer, Office of Legal Affairs

INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)/COMITE INTERNATIONAL DE LA CROIX ROUGE (CICR):

Ms Anne-Marie LA ROSA, Legal Advisor, Advisory Service on International Humanitarian Law

NORTH ATLANTIC TREATY ORGANISATION (NATO) / ORGANISATION DU TRAITE DE L'ATLANTIQUE NORD (OTAN)

Mr Baldwin DE VIDTS, Conseiller Juridique

SPECIAL GUESTS/INVITES SPECIAUX

Mr Roeland BÖCKER, Chair of the Reflection Group of the Steering Committee for Human Rights (CDDH), Ministry of Foreign Affairs

SECRETARIAT GENERAL**DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS / DIRECTION GENERALE DES DROITS DE L'HOMME ET DES AFFAIRES JURIDIQUES**

Mr Jan KLEIJSEN, Director, Directorate of Standard Setting / Direction des Activités normatives

Mr Jeroen SCHOKKENBROEK, Head of Department, Human Rights Development Department/Service du Développement des Droits de l'Homme

DIRECTORATE OF LEGAL ADVICE AND PUBLIC INTERNATIONAL LAW / DIRECTION DU CONSEIL JURIDIQUE ET DU DROIT INTERNATIONAL PUBLIC

M. Manuel LEZERTUA, Director of Legal Advice and Public International Law/Directeur du Conseil Juridique et du Droit International Public

CAHDI SECRETARIAT / SECRETARIAT DU CAHDI

M. Alexandre GUESSEL, Secretary to the CAHDI / Secrétaire du CAHDI, Head of the Public International Law and Anti-Terrorism Division / Chef de la Division du droit international public et de la lutte contre le terrorisme

Mme Albina OVCEARENCO, Co-Secretary to the CAHDI / Co-Secrétaire du CAHDI

M. Jean-Etienne KAUTZMANN, Lawyer/Juriste, Public International Law and Anti-Terrorism Division / Division du droit international public et de la lutte contre le terrorisme

Mrs Ana SALINAS DE FRIAS, Legal Adviser/ Conseiller Juridique, Public International Law and Anti-Terrorism Division / Division du droit international public et de la lutte contre le terrorisme

Mme Francine NAAS, Assistant/Assistante, Public International Law and Anti-Terrorism Division / Division du droit international public et de la lutte contre le terrorisme

Mme Carole ROSSET-CLARIDGE, Assistant/Assistante, Public International Law and Anti-Terrorism Division / Division du droit international public et de la lutte contre le terrorisme

INTERPRETERS/INTERPRETES:

M. Robert SZYMANSKI

Mme Sylvie BOUX

Mme Corinne MCGEORGE

APPENDIX II

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 36th 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. Immunities of States and international organisations
 - 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 38th meeting of the CAHDI
21. Other business:

APPENDIX III

DECLARATION OF MANUEL LEZERTUA DIRECTOR OF LEGAL ADVICE AND PUBLIC INTERNATIONAL LAW

(in French only)

Monsieur le Président,
Mesdames et Messieurs,

C'est un plaisir et un honneur pour moi, en tant que Directeur du Conseil juridique et du droit international public du Conseil de l'Europe, d'accueillir une nouvelle fois le CAHDI à Strasbourg. Comme le veut la coutume, je vais prendre quelques minutes pour évoquer devant vous l'actualité politique et juridique de notre Organisation depuis votre réunion de Londres, début octobre.

Ce n'est un secret pour personne que la première des priorités du Conseil de l'Europe, depuis plusieurs années, est d'assurer le fonctionnement à long terme de la Cour européenne des droits de l'homme. Ce fut l'un des nombreux domaines dans lesquels la présidence suédoise du Comité des Ministres s'est montrée active. C'est également la première priorité de l'actuelle présidence espagnole.

Si, ces dernières années, notre Organisation a consenti des efforts budgétaires très importants en faveur du Greffe de la Cour, elle a aussi déployé toute son énergie à faire prendre conscience des problèmes rencontrés par le Greffe. Je pense, entre autres, à l'action de la présidence suédoise visant à améliorer l'application de la Convention au niveau national, ou le séminaire organisé par la présidence norvégienne, en 2004, sur la réforme du système européen des droits de l'homme.

Un certain nombre de réflexions sont désormais sur la table. Certaines d'entre elles, comme la question du filtrage des requêtes, n'en sont qu'à leurs prémices. Il faut d'ailleurs rappeler ici que le Protocole 14 a vocation à n'être que la première étape d'un long processus de réforme de la Cour. La prochaine étape devant être la mise en application des propositions du Groupe des Sages présidé par Gil Carlos Rodriguez Iglesias.

D'autres propositions sont également avancées à un niveau plus concret. C'est notamment le cas de la mise en route de procédures envisagées depuis bientôt cinq ans, dans le cadre du Protocole 14 – en particulier la procédure du juge unique et les nouvelles compétences confiées aux comités de trois juges.

A ce sujet, il existe un objectif primordial qui doit rassembler toutes les instances et toutes les volontés au Conseil de l'Europe : l'entrée en vigueur du Protocole 14 dans le délai le plus bref possible.

En attendant cette étape essentielle, des mesures doivent être prises afin de donner rapidement à la Cour les moyens de remplir sa mission. C'est dans ce contexte que le Comité des Ministres a invité le Comité Directeur sur les droits de l'homme (CDDH) du Conseil de l'Europe à rendre un avis sur l'opportunité et les éventuelles modalités permettant d'inviter la Cour à mettre en œuvre certaines procédures déjà envisagées aux fins d'augmenter sa capacité de traitement des affaires, notamment les nouvelles procédures de juge unique et de comités. En parallèle, le Comité des Ministres a donc demandé au CAHDI de rendre un avis sur les aspects de droit international soulevés par cette problématique.

Ces nouvelles procédures sont au centre de l'avis que le Comité des Ministres a demandé au CAHDI d'adopter dans sa décision du 19 novembre 2008. Elles feront donc l'objet de la discussion qui alimente la présente réunion.

Sachez que le Secrétariat est à votre entière disposition afin que vous soyez en mesure de parvenir, au cours de la présente réunion, à répondre à la demande du Comité des Ministres.

Permettez-moi de poursuivre avec le reste de l'actualité politique récente de l'Organisation, en commençant, bien évidemment, par le changement de Présidence du Comité des Ministres. En novembre dernier, la Suède a transmis la Présidence à l'Espagne, qui assurera donc jusqu'au mois de mai prochain la présidence de l'organe exécutif de notre Organisation. La Slovénie prendra ensuite le relais, jusqu'au mois de novembre de l'année en cours.

Il est inutile d'y revenir : la première des priorités déclarées de la Présidence espagnole est, comme je l'ai déjà souligné, de trouver des aménagements alternatifs permettant d'assurer l'efficacité à long terme de la Cour, en attendant l'entrée en vigueur du Protocole 14.

Les autorités espagnoles ont également souhaité faire de la lutte contre le terrorisme l'un des sujets-clés de leur Présidence. Ainsi, l'Espagne accueillera notamment, à la mi-avril, une grande conférence internationale organisée conjointement par le Conseil de l'Europe et l'Organisation des Etats américains sur le Terrorisme et la Cyber-Sécurité. L'Espagne accueillera également à cette occasion la 15^{ème} réunion du Comité d'Experts sur le Terrorisme (CODEXTER).

Outre la question des phénomènes migratoires et la situation des roms, la Présidence espagnole place également « l'enfant » au cœur de ses préoccupations et a ainsi accueilli, la semaine dernière à Tolède, une conférence internationale sur l'accès à la justice et la place des enfants dans le système judiciaire.

Enfin, sachez que la fin de la Présidence espagnole correspondra avec la célébration des 60 ans du Conseil de l'Europe et qu'à cette occasion la 119^{ème} session du Comité des Ministres se tiendra, le 12 mai 2009, à Madrid. Il est probable d'ailleurs que la 1^{ère} réunion de la Conférence des Parties à la Convention sur la prévention du terrorisme se tiendra en marge de cette session ministérielle à Madrid.

J'en viens maintenant aux relations que le Conseil de l'Europe entretient, à la recherche constante de nouvelles synergies, avec d'autres organisations internationales.

Nous avons évoqué la question lors de la dernière réunion du CAHDI, et c'est désormais chose faite : l'Assemblée Générale des Nations Unies a adopté le 3 novembre 2008 une Résolution sur la « Coopération entre les Nations Unies et le Conseil de l'Europe ». Ce texte reconnaît la contribution du Conseil de l'Europe à la protection des droits de l'homme en Europe et au développement du droit international et salue les rapports étroits entretenus entre les deux organisations. Nous nous en félicitons.

C'est l'occasion également de mentionner que le Comité des Ministres du Conseil de l'Europe a approuvé le 4 février dernier un mémorandum d'accord entre notre Organisation et le Programme des Nations Unies pour le développement, lequel vise à ce que les deux institutions mènent en commun « des actions en faveur de la démocratie et de la bonne gouvernance aux niveaux local et régional en Europe de l'Est et dans le Caucase, en vue de tirer parti de leur complémentarité et d'utiliser de manière optimale leurs moyens d'action et atouts respectifs ».

Concernant nos relations avec l'Union européenne, la 27^{ème} réunion quadripartite entre nos deux organisations s'est tenue le 10 novembre 2008 à Bruxelles. Le conflit entre la Fédération de Russie et la Géorgie fut notamment au centre des discussions. Nous nous sommes entendus avec l'Union européenne pour renforcer notre coopération dans la région.

Enfin, faisant suite à la recommandation 1834(2008) de l'Assemblée Parlementaire du Conseil de l'Europe, le Comité des Ministres devrait être prochainement amené à discuter la question de l'accession de l'Union européenne, ou de la Communauté, à la Convention européenne des droits de l'homme.

* * *

J'en viens aux développements survenus dans la série des traités du Conseil de l'Europe.

A noter pour commencer, l'adoption, le 27 novembre 2008, de la Convention du Conseil de l'Europe sur l'accès aux documents administratifs, qui reconnaît un droit général d'accès aux documents administratifs qui sont en possession des autorités publiques. Cette Convention sera ouverte à la signature le 18 juin 2009 à l'occasion de la 29^{ème} Conférence des Ministres de la Justice, qui se tiendra à Tromsø (Norvège) les 18 et 19 juin 2009.

Deux autres traités ont été ouverts à la signature le 27 novembre 2008 : tout d'abord, le protocole additionnel à la Convention sur les Droits de l'homme et la Biomédecine relatif aux tests génétiques à des fins médicales, puis, la Convention européenne révisée en matière d'adoption des enfants, que j'avais eu l'occasion d'évoquer lors de notre précédente réunion.

Enfin, faisant suite au dépôt du troisième instrument de ratification, la Convention du Conseil de l'Europe sur la prévention des cas d'apatridie en relation avec la succession d'Etats entrera en vigueur au 1^{er} mai 2009.

En dehors du processus d'adoption, de signature et de ratification des instruments, deux événements sont à souligner relativement à la série des traités du Conseil de l'Europe : en premier lieu, sachez que le Groupe d'experts sur la lutte contre la traite des êtres humains (GRETA) a tenu sa première réunion du 24 au 27 février à Strasbourg. Il s'agit du nouvel organe chargé de contrôler la mise en œuvre de la Convention sur la lutte contre la traite des êtres humains.

En second lieu, et cela intéresse directement les travaux du CAHDI, l'Assemblée Parlementaire du Conseil de l'Europe a adopté, le 29 janvier 2009, sa Recommandation 1858 (2009) relative aux sociétés privées à vocation militaire ou sécuritaire et à l'érosion du monopole étatique du recours à la force. Ce texte recommande au Comité des Ministres d'adopter un instrument du Conseil de l'Europe visant à réglementer les relations de ses Etats membres avec les sociétés privées à vocation militaire ou sécuritaire et à énoncer des normes minimales pour l'activité de ces sociétés privées.

Pour terminer, deux récentes conférences sont à signaler :

Tout d'abord, la tenue, les 23 et 24 janvier 2009, au Cap (en Afrique du Sud), de la Conférence mondiale sur la justice constitutionnelle, organisée par la Cour constitutionnelle d'Afrique du Sud et la Commission de Venise. Cette Conférence a porté sur la manière dont les cours constitutionnelles et les cours suprêmes pèsent sur la législation, laquelle pèse à son tour sur la société.

Enfin, nous nous réjouissons de l'organisation, à Moscou, les 26 et 27 février 2009, de la première Conférence des Ministres responsables de la cohésion sociale. Dans le contexte de crise économique que nous connaissons, les ministres ont souligné leur volonté de renforcer leur engagement politique afin d'offrir à chacun un égal accès aux droits sociaux, améliorant ainsi la stabilité sociale et économique de nos sociétés.

De longs travaux vous attendent pour cette réunion. Je m'en tiendrai donc là pour l'actualité du Conseil de l'Europe. Je vous souhaite une nouvelle fois un bon séjour à Strasbourg et, surtout, des échanges fructueux et constructifs.

Merci à vous.

APPENDIX IV

OBJECTIONS TO OUTSTANDING RESERVATIONS AND DECLARATIONS TO INTERNATIONAL TREATIES OBJECTIONS AUX RÉSERVES ET DÉCLARATIONS AUX TRAITÉS INTERNATIONAUX SUSCEPTIBLES D'OBJECTION

(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. 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

States / Etats	Conventions	A						B	C		D
		1	2	3	4	5	6	7	8	9	10
	Reservation/ Réserve	El Salvador	Mauritius Maurice	Thailand Thaïlande	The Netherlands Pays-Bas	Malta Malte	Poland Pologne	Pakistan	Egypt Egypte	Uzbekistan Ouzbékistan	Singapore Singapour
	Deadline Délai	30/03/07	25/09/07	28/07/09	30/03/07	30/03/07	30/03/07	17/04/09	20/09/05	07/05/09	13/05/09
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											

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 TO RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES
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 / États	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 /						

<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"/ "l'ex- République yougoslave de Macédoine"					
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*

APPENDIX V

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	
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971	Venezuela	Reservation upon ratification, regarding Articles 4, 7 and 8 of the Convention:	<p>United Kingdom (UK): 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>Finland: 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>	

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, New York, 14 December 1973	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.	UK: 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.	Greece (Gr): 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.
Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980	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.	UK: 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)	Gr: 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>Gr: 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>
--	---------------------------------	---	---

International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997	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.	Gr: 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.	Gr: 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	Gr: 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>Gr: 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>UK: 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>Russian Federation (RU):</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>
--	--	---	---

		<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>	
--	--	--	--

	Egypt 9 Aug. 2005	<p>Reservations:</p> <ol style="list-style-type: none"> 1. The Government of the Arab Republic of Egypt declares that it shall be bound by article 6, paragraph 5, of the Convention to the extent that the national legislation of States Parties is not incompatible with the relevant norms and principles of international law. 2. The Government of the Arab Republic of Egypt declares that 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. <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 th meeting of the CAHDI : 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.
International Convention for the Suppression of Financing of Terrorism, New York, 9 December 1999	Democratic People's Republic of Korea 12 Nov. 2001	<p>Reservation upon signature:</p> <ol style="list-style-type: none"> 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. 2. The Democratic People's Republic of Korea does not consider itself bound by the provisions of article 14 of the Convention. 3. The Democratic People's Republic of Korea does not consider itself bound by the provisions of article 24, paragraph 1 of the Convention. 	<p>UK: 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>Gr: 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>UK: 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>Gr: Same commentary as regards to the Pakistani reservation to the International Convention for the Suppression of Terrorist Bombings.</p> <p>RU: 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>
--	-----------------------------------	--	---

	<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 30th meeting of the CAHDI.</p> <p>Latvia: 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>
--	----------------------------------	--	---

			<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"> 1. The International Convention against the Taking of Hostages, adopted by the General Assembly on 17 December 1979; 2. The Convention on the Physical Protection of Nuclear Materials, adopted at Vienna on 3 March 	<p>This reservation was included in the list at the 30th meeting of the CAHDI.</p> <p>Latvia: 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 35th meeting of the CAHDI.</p> <p>Latvia: 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>

		<p>Constitution of the country."</p>	<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>
--	--	--------------------------------------	--

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	Egypt 8 Jan. 1993	<p>The instrument of ratification was accompanied by the following reservations:</p> <ol style="list-style-type: none"> 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. 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). <p>This is in compliance with the provision of paragraph 4 of each of the two articles.</p>	<p>Gr: 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>
International Convention against the Taking of Hostages, New York, 17 December 1979	Lebanon 4 Dec. 1997	<p>Declaration:</p> <ol style="list-style-type: none"> 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. 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. 	<p>Gr: 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 35th meeting of the CAHDI.</p> <p>Latvia: 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>
--	---	---	--

		<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>
--	--	--	---

APPENDIX VI

PRELIMINARY DRAFT AGENDA OF 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 37th 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 39th meeting of the CAHDI

20. Other business

APPENDIX VII

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 37th 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 report⁶.
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.⁷ 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 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.

⁶ Document CAHDI (2009) 8

⁷ Committee of Ministers' decision of 19 November 2009 (document CM/Del/Dec (2008) 1041)

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 2001.⁸ The Committee agreed that this list had been updated since its last transmission to the Committee of Ministers⁹ 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.

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.

⁸ Document CM/Del/Dec (2001) 765bis/2.1

⁹ document CAHDI (2004) 22

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.