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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

European Observatory of Reservations to International Treaties:

**List of Outstanding Reservations and Declarations to
International Treaties**

42nd meeting

Strasbourg, 22-23 September 2011

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Foreword

1. At its second meeting (Paris, 14-16 September 1998) the Group of Specialists on Reservations to International Treaties (DI-S-RIT) agreed to propose to the CAHDI to operate as an European observatory of reservations to international treaties (see meeting report, document DI-S-RIT (98) 10).
2. In this context, the CAHDI regularly considers a list of outstanding reservations.
3. The following list includes two parts. Part I concerns reservations and declarations to treaties concluded outside the Council of Europe. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org/>. Part II concerns reservations and declarations to treaties concluded within the Council of Europe. The information contained therein can be consulted at the Council of Europe site <http://conventions.coe.int/>.
4. The format of the information is CONVENTION: **State reserving**, date of notification to the depositary, date of notification by the depositary (where those dates coincide they are indicated only once), deadline for objections. In as far as possible, the text of the reservation and declaration is included.

Action required

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as a European Observatory of Reservations to International Treaties. A table of objections to these reservations and declarations is circulated as an Addendum to this document.

LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS

PART I: RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

A. CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (1958)

1. LIECHTENSTEIN, 7 July 2011, 6 July 2012

Reservation

“In accordance with article 1 (3)¹ the Principality of Liechtenstein will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of awards made only in the territory of another Contracting State.”

B. EUROPEAN AGREEMENT CONCERNING THE WORK OF CREWS OF VEHICLES ENGAGED IN INTERNATIONAL ROAD TRANSPORT (AETR) (1970)

2. GEORGIA, 19 May 2011, 18 May 2012

Reservation

“The Government of Georgia reserves its right to use measures to be applied during the tolerance period with respect to the implementation of digital tachograph by the Contracting Parties to the European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) of 1 July 1970, during the two years period after Georgia’s accession to the AETR agreement.”

C. CONVENTION ON ROAD SIGNS AND SIGNALS (1968)

3. AZERBAIJAN, 22 February 2011, 14 June 2011, 13 June 2012

Reservation, declaration and notification

“In relation to paragraph 1 of Article 46 of the Convention, the Republic of Azerbaijan declares that it doesn’t consider itself bound by Article 44 of this Convention.

The Republic of Azerbaijan declares that it is unable to guarantee implementation of the provisions of the Convention in its territories occupied by the Republic of Armenia, until the liberation of those territories from the occupation and complete elimination of consequences of that occupation.

¹ Article 1:

“1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term “arbitral awards” shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.”

According to paragraph 2 of Article 46 of the Convention, the Republic of Azerbaijan declares that it chooses the model Aa as a danger warning sign and the model B, 2a as a stop sign in the territory of the Republic of Azerbaijan.”²

D. EUROPEAN AGREEMENT SUPPLEMENTING THE CONVENTION ON ROAD SIGNS AND SIGNALS (1971)

4. AZERBAIJAN, 11 July 2011, 19 July 2011, 18 July 2012

Reservation, declaration and notification

“In relation to Article 11, the Republic of Azerbaijan declares that it does not consider itself bound by Article 9 of this Agreement.

The Republic of Azerbaijan declares that it is unable to guarantee implementation of the provisions of the Agreement in its territories occupied by the Republic of Armenia, until the liberation of those territories from the occupation and complete elimination of consequences of that occupation.”

“In accordance with Article 6 (8), the Ministry of Internal Affairs of the Republic of Azerbaijan (Address: AZ1005, Baku city, Azerbaijan avenue 7) is the administration competent in the matter of agreement as contemplated in Article 6 (7) of the above-mentioned Agreement.”³

² Article 44:

“Any dispute between two or more Contracting Parties which relates to the interpretation or application of this Convention and which the Parties are unable to settle by negotiation or other means of settlement may be referred, at the request of any of the Contracting Parties concerned, to the International Court of Justice for decision.”

Article 46:

“1. Any State may, at the time of signing this Convention or of depositing its instrument of ratification or accession, declare that it does not consider itself bound by Article 44 of this Convention. Other Contracting Parties shall not be bound by Article 44 with respect to any Contracting Party which has made such a declaration.

2. (a) At the time of depositing its instrument of ratification or accession, every State shall, by notification addressed to the Secretary-General, declare for the purposes of the application of this Convention: (i) Which of the models Aa and Ab it chooses as a danger warning sign (Art. 9, para. 1), and (ii) Which of the models B, 2a and B, 2b it chooses as a stop sign (Art. 10, para. 3). Any State may, subsequently, at any time, by notification addressed to the Secretary-General alter its choice by replacing its declaration by another. (b) At the time of depositing its instrument of ratification or accession, any State may, by notification addressed to the Secretary-General, declare that for the purposes of the application of this Convention it treats Mopeds as motor cycles (art. 1, (l)). By notification addressed to the Secretary-General, any State may subsequently, at any time, withdraw its declaration.”

3. The declarations provided for in paragraph 2 of this Article shall become effective six months after the date of receipt by the Secretary-General of notification of them or on the date on which the Convention enters into force for the State making the declaration, whichever is the later.

4. Reservations to this Convention and its annexes, other than the reservation provided for in paragraph 1 of this Article, shall be permitted on condition that they are formulated in writing and, if formulated before the deposit of the instrument of ratification or accession, are confirmed in that instrument. The Secretary-General shall communicate such reservations to all States referred to in Article 37, paragraph 1 of this Convention.

5. Any Contracting Party which has formulated a reservation or made a declaration under paragraphs 1 and 4 of this Article may withdraw it at any time by notification addressed to the Secretary-General.

6. A reservation made in accordance with paragraph 4 of this Article: (a) Modifies for the Contracting Party which made the reservation the provisions of the Convention to which the reservation relates, to the extent of the reservation; (b) Modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which entered the reservation.

³ Article 6:

“1. After this Agreement has been in force for twelve months, any Contracting Party may propose one or more amendments to the Agreement. The text of any proposed amendment, accompanied by an explanatory memorandum, shall be transmitted to the Secretary-General, who shall communicate it to all Contracting Parties. The Contracting Parties shall have the opportunity of informing him within a period of twelve months following the date of its circulation whether they: (a) accept the amendment; or (b) reject the amendment; or (c) wish that a conference be convened to consider the amendment. The Secretary-General shall also transmit the text of the proposed amendment to the other States referred to in article 2 of this Agreement.

2. (a) Any proposed amendment communicated in accordance with paragraph 1 of this article shall be deemed to be accepted if within the period of twelve months referred to in the preceding paragraph less than one-third of the Contracting Parties inform the Secretary-General that they either reject the amendment or wish that a conference be convened to consider it. The Secretary-General shall notify all Contracting Parties of each acceptance or rejection of any proposed amendment and of requests that a conference be convened. If the total number of such rejections and

requests received during the specified period of twelve months is less than one-third of the total number of Contracting Parties, the Secretary-General shall notify all Contracting Parties that the amendment will enter into force six months after the expiry of the period of twelve months referred to in paragraph 1 of this article for all Contracting Parties except those which, during the period specified, have rejected the amendment or requested the convening of a conference to consider it. (b) Any Contracting Party which, during the said period of twelve months, has rejected a proposed amendment or requested the convening of a conference to consider it may at any time after the end of such period notify the Secretary-General that it accepts the amendment, and the Secretary-General shall communicate such notification to all the other Contracting Parties. The amendment shall enter into force, with respect to the Contracting Party which has notified its acceptance, six months after the date on which the Secretary-General receives the notification.

3. If a proposed amendment has not been accepted in accordance with paragraph 2 of this article and if within the period of twelve months specified in paragraph 1 of this article less than half of the total number of the Contracting Parties inform the Secretary-General that they reject the proposed amendment and if at least one-third of the total number of Contracting Parties, but not less than five, inform him that they accept it or wish a conference to be convened to consider it, the Secretary-General shall convene a conference for the purpose of considering the proposed amendment or any other proposal which may be submitted to him in accordance with paragraph 4 of this article.

4. If a conference is convened in accordance with paragraph 3 of this article, the Secretary-General shall invite to it all the Contracting Parties and the other States referred to in article 2 of this Agreement. He shall request all States invited to the Conference to submit to him, at least six months before its opening date, any proposals which they may wish the Conference to consider in addition to the proposed amendment and shall communicate such proposals, at least three months before the opening date of the conference, to all States invited to the Conference.

5. (a) Any amendment to this Agreement shall be deemed to be accepted if it has been adopted by a two-thirds majority of the States represented at the Conference, provided that such majority comprises at least two-thirds of the Contracting Parties represented at the Conference. The Secretary-General shall notify all Contracting Parties of the adoption of the amendment, and the amendment shall enter into force twelve months after the date of this notification for all Contracting Parties except those which during that period have notified the Secretary-General that they reject the amendment.

(b) A Contracting Party which has rejected an amendment during the said period of twelve months may at any time notify the Secretary-General that it accepts the amendment, and the Secretary-General shall communicate such notification to all the other Contracting Parties. The amendment shall enter into force, with respect to the Contracting Party which has notified its acceptance, six months after receipt by the Secretary-General of the notification or at the end of the said period of twelve months, whichever is later.

6. If the proposed amendment is not deemed to be accepted pursuant to paragraph 2 of this article and if the conditions prescribed by paragraph 3 of this article for convening a conference are not fulfilled, the proposed amendment shall be deemed to be rejected.

7. Independently of the amendment procedure prescribed in paragraphs 1- 6 of this article, the annex to this Agreement may be amended by agreement between the competent administrations of all Contracting Parties. If the administration of a Contracting Party states that its national law obliges it to subordinate its agreement to the grant of a specific authorization or to the approval of a legislative body, the competent administration of the Contracting Party in question shall be considered to have consented to the amendment to the annex only at such time as it notifies the Secretary-General that it has obtained the required authorization or approval. The agreement between the competent administrations may provide that, during a transitional period, the former provisions of the annex shall remain in force, in whole or in part, simultaneously with the new provisions. The Secretary-General shall appoint the date of entry into force of the new provisions.

8. Each State shall, at the time of signing, ratifying, or acceding to, this Agreement, inform the Secretary-General of the name and address of its administration competent in the matter of agreement as contemplated in paragraph 7 of this article."

Article 9:

"1. Any dispute between two or more Contracting Parties which relates to the interpretation or application of this Agreement and which the Parties in dispute are unable to settle by negotiation or other means of settlement shall be referred to arbitration if any of the Contracting Parties in dispute so requests, and shall, to that end, be submitted to one or more arbitrators selected by mutual agreement between the Parties in dispute. If the Parties in dispute fail to agree on the choice of an arbitrator or arbitrators within three months after the request for arbitration, any of those Parties may request the Secretary-General of the United Nations to appoint a single arbitrator to whom the dispute shall be submitted for decision.

2. The award of the arbitrator or arbitrators appointed in accordance with paragraph 1 of this article shall be binding upon the Contracting Parties in dispute."

Article 11:

"1. Any State may, at the time of signing this Agreement or of depositing its instrument of ratification or accession, declare that it does not consider itself bound by article 9 of this Agreement. Other Contracting Parties shall not be bound by article 9 with respect to any Contracting Party which has made such a declaration.

2. Reservations to this Agreement, other than the reservation provided for in paragraph 1 of this article, shall be permitted on condition that they are formulated in writing and, if formulated before the deposit of the instrument of ratification or accession, are confirmed in that instrument.

3. Any State shall, at the time of depositing its instrument of ratification of this Agreement or of accession thereto, notify the Secretary-General in writing to what extent any reservation made by it to the Convention on Road Signs and Signals opened for signature at Vienna on 8 November 1968 apply to this Agreement. Any reservations to the Convention on Road Signs and Signals which have not been included in the notification made at the time of depositing the instrument of ratification of this Agreement or of accession thereto shall be deemed to be inapplicable to this Agreement.

4. The Secretary-General shall communicate the reservations and notifications made pursuant to this article to all States referred to in article 2 of this Agreement.

E. PROTOCOL ON ROAD MARKINGS, ADDITIONAL TO THE EUROPEAN AGREEMENT SUPPLEMENTING THE CONVENTION ON ROAD SIGNS AND SIGNALS (1973)

5. AZERBAIJAN, 11 July 2011, 19 July 2011, 18 July 2012

Reservation, declaration and notification

"In relation to Article 11 of the Protocol, the Republic of Azerbaijan declares that it does not consider itself bound by Article 9 of this Protocol.

The Republic of Azerbaijan declares that it is unable to guarantee implementation of the provisions of the Protocol in its territories occupied by the Republic of Armenia, until the liberation of those territories from the occupation and complete elimination of consequences of that occupation."

In accordance with Article 6 (8), the Ministry of Internal Affairs of the Republic of Azerbaijan (Address: AZ1005, Baku city, Azerbaijan avenue 7) is the administration competent in the matter of agreement as contemplated in Article 6 (7) of the above-mentioned Protocol."⁴

F. INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES (1979)

6. SINGAPORE, 22 October 2010, 9 November 2010, 8 November 2011

Reservation and declaration

"Pursuant to Article 16, paragraph 2, of the Convention, the Republic of Singapore declares that it does not consider itself bound by the provisions of Article 16, paragraph 1 of the Convention.

The Republic of Singapore understands Article 8(1) of the Convention to include the right of 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."⁵

5. Any State which has made a declaration, a reservation or a notification under this article may withdraw it at any time by notification addressed to the Secretary-General.

6. Any reservation made in accordance with paragraph 2 or notified in accordance with paragraph 3 of this article, (a) modifies, for the Contracting Party which has made or notified the reservation, the provisions of the Agreement to which the reservation relates, to the extent of the reservation; (b) modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which made or notified the reservation."

⁴ Note of the Secretariat: Articles 6, 9 and 11 are equivalent to those of the European Agreement supplementing the Convention on Road Signs and Signals, except from the term "Agreement" being replaced by the term "Protocol".

⁵ Article 8:

"1. The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connexion with any of the offences set forth in article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which he is present."

Article 16:

"1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General in the United Nations."

G. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (1979)

7. BAHAMAS, 25 February 2011, 1 March 2011, 29 February 2012

Partial withdrawal

"On 25 February 2011, the Government of the Commonwealth of the Bahamas notified the Secretary-General of its decision to withdraw the reservation to article 16 (1) h) of the Convention.

The remaining reservation will now read as follows:

The Government of the Commonwealth of the Bahamas does not consider itself bound by the provisions of article 2 (a) of the Convention.

The Government of the Commonwealth of the Bahamas does not consider itself bound by the provisions of article 9, paragraph 2, of the Convention.

The Government of the Commonwealth of the Bahamas does not consider itself bound by the provisions of article 29, paragraph 1, of the Convention."⁶

⁶ Article 2:

"States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women."

Article 9:

"1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children."

Article 16:

"1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent; (c) The same rights and responsibilities during marriage and at its dissolution; (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights; (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount; (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."

Article 29:

"1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

8. MOROCCO, 8 April 2011, 18 April 2011, 17 April 2012***Partial withdrawal***

“The Kingdom of Morocco withdraws its reservations in respect of articles 9 (2) and 16 of the Convention.”⁷

H. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (1982)**9. THAILAND**, 15 May 2011, 25 May 2011, 24 May 2012***Declaration***

“I. The Government of the Kingdom of Thailand declares, in relation to Article 310 of the United Nations Convention on the Law of the Sea, as follows:

1. The Government of the Kingdom of Thailand intends to undertake a comprehensive review of existing domestic laws and regulations with a view to progressively harmonizing them with the provisions of the Convention.
2. The Government of the Kingdom of Thailand is not bound either by any declaration or position excluding or modifying the legal scope of the provisions of the Convention, or by any domestic legislation which is inconsistent with the relevant principles of international law and the Convention. The Government of the Kingdom of Thailand reserves the right to state its position concerning all such legislations or declarations at the appropriate time.
3. Ratification by the Government of the Kingdom of Thailand does not imply recognition or acceptance of any territorial claim made by a State party to the Convention.
4. The Government of the Kingdom of Thailand understands that, in the exclusive economic zone, enjoyment of the freedom of navigation in accordance with relevant provisions of the Convention excludes any non-peaceful use without the consent of the coastal State, in particular, military exercises or other activities which may affect the rights or interests of the coastal State; and it also excludes the threat or use of force against the territorial integrity, political independence, peace or security of the coastal State.
5. The Government of the Kingdom of Thailand reserves the right to make, at an appropriate time, the declaration provided for in Article 287 relating to the settlement of disputes concerning the interpretation or application of the Convention.

II. The Government of the Kingdom of Thailand declares, in relation to Article 298 of the United Nations Convention on the Law of the Sea, as follows:

With reference to Article 298, paragraph 1, the Government of the Kingdom of Thailand does not accept any of the procedures provided for in Part XV, Section 2, with respect to the following disputes:

- disputes concerning the interpretation or application of Articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles;
- disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.”

⁷ *Note of the Secretariat: Articles 9 and 16 referred to in the partial withdrawal are equivalent to the ones referred to in the partial withdrawal of Bahamas.*

regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under Article 297, paragraph 2 or 3;

- disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in the Convention.”⁸

⁸ Article 15:

“Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.”

Article 74:

“1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.”

Article 83:

“1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.”

Article 287:

“1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention: a) the International Tribunal for the Law of the Sea established in accordance with Annex VI; b) the International Court of Justice; c) an arbitral tribunal constituted in accordance with Annex VII; d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.”

Article 297:

“1. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases: a) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58; b) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not

incompatible with this Convention; or c) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.

2. a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute arising out of: i) the exercise by the coastal State of a right or discretion in accordance with article 246, or ii) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253. b) A dispute arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with this Convention shall be submitted, at the request of either party, to conciliation under Annex V, section 2, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in article 246, paragraph 6, or of its discretion to withhold consent in accordance with article 246, paragraph 5.

3. a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management laws and regulations. b) Where no settlement has been reached by recourse to section 1 of this Part, a dispute shall be submitted to conciliation under Annex V, section 2, at the request of any party to the dispute, when it is alleged that: i) a coastal State has manifestly failed to comply with its obligations to ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not seriously endangered; ii) a coastal State has arbitrarily refused to determine, at the request of another State, the allowable catch and its capacity to harvest living resources with respect to stocks which that other State is interested in fishing, or iii) a coastal State has arbitrarily refused to allocate to any State, under articles 62, 69 and 70 and under the terms and conditions established by the coastal State consistent with this Convention, the whole or part of the surplus it has declared to exist. c) In no case shall the conciliation commission substitute its discretion for that of the coastal State. d) The report of the conciliation commission shall be communicated to the appropriate international organizations. e) In negotiating agreements pursuant to articles 69 and 70, States Parties, unless they otherwise agree, shall include a clause on measures which they shall take in order to minimize the possibility of a disagreement concerning the interpretation or application of the agreement, and on how they should proceed if a disagreement nevertheless arises."

Article 298:

"1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes: a) i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission; ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree; iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties; b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3; c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1 (a), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties."

Article 310:

"Article 309 does not preclude a State, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State."

I. CONVENTION ON THE RIGHTS OF THE CHILD (1989)

10. THAILAND, 13 December 2010, 15 December 2010, 14 December 2011

Partial withdrawal

“On 13 December 2010, the Government of Thailand notified the Secretary-General of its decision to withdraw the reservation to article 7 of the Convention. The remaining reservation will now read as follows:

The application of article 22⁹ of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand.”

J. UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (2000)

11. INDIA, 5 May 2011, 31 May 2011, 30 May 2012

Declarations

“(i) The Government of India does not consider itself bound by the provisions of the Convention and its Protocols relating to submission of disputes for arbitration or to the International Court of Justice.

(ii) In pursuance of Article 16, paragraph 5(a) of the Convention, the Government of India shall apply the Convention as the legal basis for cooperation on extradition with other States Parties to the Convention.

(iii) The Government of the Republic of India declares, with respect to Article 18 of the Convention, that international cooperation for mutual legal assistance shall be afforded through applicable bilateral Agreements, and where the mutual legal assistance sought is not covered by a bilateral agreement with the requesting State, it shall on reciprocal basis, be provided under the provisions of the Convention.

(iv) In pursuance of Article 18, paragraph 13 of the Convention, the designated Central Authority would be the Secretary, Ministry of Home Affairs, Government of India.

(v) The Government of India declares that acceptable languages for the purpose of the Convention and its Protocols shall be English and/or Hindi.”¹⁰

⁹ Article 22:

“1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.”

¹⁰ Article 16, paragraph 5:

“5. States Parties that make extradition conditional on the existence of a treaty shall: (a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and (b) If they do not take this Convention as the legal basis for cooperation on extradition,

seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article."

Article 18:

"1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes: (a) Taking evidence or statements from persons; (b) Effecting service of judicial documents; (c) Executing searches and seizures, and freezing; (d) Examining objects and sites; (e) Providing information, evidentiary items and expert evaluations; (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; (h) Facilitating the voluntary appearance of persons in the requesting State Party; (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met: (a) The person freely gives his or her informed consent; (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article: (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred; (b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties; (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person; (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the

competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain: (a) The identity of the authority making the request; (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding; (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents; (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed; (e) Where possible, the identity, location and nationality of any person concerned; and (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused: (a) If the request is not made in conformity with the provisions of this article; (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests; (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction; (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

12. BANGLADESH, 13 July 2011, 14 July 2011, 13 July 2012**Reservation**

"In accordance with the provision in paragraph 3 of Article 35¹¹ of the Convention, the People's Republic of Bangladesh does not consider itself bound by paragraph 2 of the said Article."

K. UNITED NATIONS CONVENTION AGAINST CORRUPTION (2003)**13. NEPAL**, 29 March 2011, 4 April 2011, 3 April 2012**Reservation and notification**

"The Government of Nepal does not consider itself bound by the provision of Article 66 of the United Nations Convention against Corruption under which any dispute between two or more States Parties concerning the interpretation or application of the Convention, at the request of one of those States to the dispute shall be submitted to arbitration, or any of those States Parties may refer the dispute in question to the International Court of Justice.

"In accordance with Articles 44.6, 46.13 and 46.14 of the United Nations Convention against Corruption, [the] Government of Nepal hereby notifies that:

a) With reference to Article 44.6 (a) of the Convention, the Government of Nepal would like to inform the Secretary-General of the United Nations that it will not take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention.

b) With reference to Article 46.13 of the Convention, the Government of Nepal would like to notify that the Office of the Prime Minister and Council of Ministers has been designated as the central authority with responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution.

c) With reference to Article 46.14 of the Convention, the Government of Nepal would like to notify that the English or Nepali Language shall be acceptable for mutual legal assistance."¹²

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfill the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party: (a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public; (b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article."

¹¹ Article 35:

"1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations."

¹² Article 44, paragraph 6:

"6. A State Party that makes extradition conditional on the existence of a treaty shall: (a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and (b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article."

Article 46:

"1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes: (a) Taking evidence or statements from persons; (b) Effecting service of judicial documents; (c) Executing searches and seizures, and freezing; (d) Examining objects and sites; (e) Providing information, evidentiary items and expert evaluations; (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; (h) Facilitating the voluntary appearance of persons in the requesting State Party; (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party; (j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention; (k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply those paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1; (b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met: (a) The person freely gives his or her informed consent; (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article: (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred; (b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties; (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person; (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain: (a) The identity of the authority making the request; (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding; (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents; (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed; (e) Where possible, the identity, location and nationality of any person concerned; and (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused: (a) If the request is not made in conformity with the provisions of this article; (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests; (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction; (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

14. INDIA, 9 May 2011, 14 July 2011, 13 July 2012**Reservation and notifications**

“The Government of the Republic of India does not consider itself bound by paragraph 2 of Article 66 of the Convention.

The Government of the Republic of India declares that international cooperation for mutual legal assistance under Articles 45 and 46 of the Convention shall be afforded through applicable bilateral Agreements, and where the mutual legal assistance sought is not covered by a bilateral agreement with the requesting State, it shall on reciprocal basis, be provided under the provisions of the Convention.

The designated Central Authority under Article 6, paragraph 3 of the Convention to assist other States Parties in developing and implementing specific measures for the prevention of corruption shall be the Secretary, Department of Personnel & Training, Government of India.

The designated Central Authority under Article 46, paragraph 13 of the Convention shall be the Secretary, Ministry of Home Affairs, Government of India.

The Government of the Republic of India declares that the acceptable language under Article 46, paragraph 14 of the Convention for the written requests for mutual legal assistance and other related issues shall be English.”¹³

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfill the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party: (a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public; (b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.”

Article 66:

“1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.”

¹³ Note of the Secretariat: Articles 46 and 66 are identical to the aforementioned.

Article 6:

“1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as: (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies; (b) Increasing and disseminating knowledge about the prevention of corruption.

L. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM (2005)

15. CHINA, 8 November 2010, 15 November 2010, 14 November 2011

Declarations and notification

"The People's Republic of China does not consider itself bound by paragraph 1 of article 23 of the Convention.

The Convention shall apply to the Macao Special Administrative Region of the People's Republic of China and, unless otherwise notified, shall not apply to the Hong Kong Special Administrative Region of the People's Republic of China.

In accordance with paragraph 3 of article 9 of the Convention, the People's Republic of China has established the jurisdiction specified in paragraph 2 of article 9 of the Convention."¹⁴

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption."

Article 45:

"States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there."

¹⁴ Article 9:

"1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

- a. The offence is committed in the territory of that State; or
- b. The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
- c. The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- a. The offence is committed against a national of that State; or
- b. The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or
- c. The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
- d. The offence is committed in an attempt to compel that State to do or abstain from doing any act; or
- e. The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its national law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its national law."

Article 23:"1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations."

M. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2006)

16. CYPRUS, 27 June 2011, 11 July 2011, 10 July 2012

Reservation

“Whereas the Persons with Disabilities Law, as this has been harmonized with the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, prescribes in section 3A thereof that the said Law shall not apply as regards employment:

(a) to the armed forces, to the extent that the nature of the work requires special abilities which cannot be exercised by persons with disabilities, and

(b) to occupational activities where by reason of the nature or the context in which they are carried out, a characteristic or an ability which is not possessed by a person with a disability, constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate, taking into account the possibility of adopting reasonable measures,

the Republic of Cyprus declares that it ratifies the Convention with a reservation in respect of Article 27(1)¹⁵ of the Convention, to the extent that the provisions thereof are in conflict with the provisions of section 3A of the Persons with Disabilities Law.”

N. CONVENTION ON CLUSTER MUNITIONS (2008)

17. EL SALVADOR, 10 January 2011, 17 January 2011, 16 January 2012

Interpretative declaration

“Regarding Article 10¹⁶ of this Convention, the Government of the Republic of El Salvador considers that the contents of paragraph 1 of this Article do not imply any recognition of or

¹⁵ Article 27:

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia: a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions; b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances; c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others; d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training; e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment; f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business; g) Employ persons with disabilities in the public sector; h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures; i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace; j) Promote the acquisition by persons with disabilities of work experience in the open labour market; k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

¹⁶ Article 10: Settlement of disputes

“1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute

mandatory subjection of any dispute to the jurisdiction of the International Court of Justice, but instead the purely discretionary power of each State party to submit to such a jurisdiction if it should so agree, given that the Republic of El Salvador does not recognize the jurisdiction of the International Court of Justice.”

PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES**SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS [CETS No. 182], 1 FEBRUARY 2004**

CHILE, 30 May 2011, 5 August 2011, 4 August 2012

Declaration

[...]

“In accordance with Article 26, paragraph 5¹⁷, of the Second Additional Protocol, the Republic of Chile declares that it submits the handling and lapse of the requesting party’s information to domestic laws.”

¹⁷ Article 26:

“1. Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only: a) for the purpose of proceedings to which the Convention or any of its Protocols apply; b) for other judicial and administrative proceedings directly related to the proceedings mentioned under (a); c) for preventing an immediate and serious threat to public security.

2. Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data had been transferred, or the data subject.

3. Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols where

– such data is protected under its national legislation, and

– the Party to which the data should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.

4. Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols may require the Party to which the data have been transferred to give information on the use made with such data.

5. Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or one of its Protocols, personal data transmitted to another Party not be used by the latter for the purposes of paragraph 1 unless with its previous consent.”