

Strasbourg, 7 March 2001

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

21st meeting, Strasbourg, 6-7 March 2001

List of items discussed and decisions taken

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 21st meeting in Strasbourg, on 6 and 7 March 2001. The meeting was chaired by Ambassador Tomka (Slovak Republic), Chairman of the CAHDI. The list of participants appears in Appendix I and the agenda appears in Appendix II.
2. The CAHDI was informed by the Director General of Legal Affairs, Mr De Vel, about recent developments concerning the Council of Europe. Moreover, the CAHDI was informed of the decisions taken by the Committee of Ministers concerning the Committee.
3. In the context of its operation as *European Observatory of Reservations to International Treaties*, the CAHDI considered a list of outstanding declarations and reservations to international treaties and several delegations advised the Committee about the follow-up they envisaged to give to certain of the reservations and declarations considered.
4. The CAHDI examined a revised version of the report on “Expression of consent by States to be bound by a treaty” and authorised its publication by Kluwer Law International. Moreover, it decided to present this publication to the Secretary General of the Council of Europe at its next meeting.
5. The CAHDI decided to carry out an activity on State practice regarding State immunities and asked the Secretariat to prepare a draft questionnaire to be examined at its next meeting.
6. The CAHDI also decided to make a preliminary evaluation, at its next meeting, of aspects connected with an activity on immunities of certain categories of persons including the heads of State and of Government as well as the ministers for foreign affairs, on the basis of an introductory document to be prepared by the Swiss delegation with a view to deciding on the possible implementation of an activity on this subject.
7. The CAHDI held a fruitful exchange of views with Mr Guillaume, President of the International Court of Justice on the future of international justice.
8. The CAHDI also held a useful exchange of views with Mr Krüger, Deputy Secretary General of the Council of Europe and Mr Fischbach, Judge at the European Court of Human Rights, who are observers of the Council of Europe in the "Convention", the working group in

charge of the preparation of a Charter of Fundamental Rights in the European Union, regarding developments concerning this Charter. The CAHDI agreed that there should be no competing human rights systems between the EU and the Council of Europe.

9. The CAHDI was informed about developments concerning the implementation of international instruments protecting the victims of armed conflicts as well as the implementation and the functioning of the Tribunals established by UN Security Council Resolutions 927 (1993) and 955 (1994).

10. The CAHDI held an exchange of views on developments concerning the International Criminal Court and was informed about the possible organisation by the Council of Europe of a second consultation meeting on the implications of the ratification of the Rome Statute of the International Criminal Court on the internal legal order of the member States of the Council of Europe, following the initiatives of the authorities of Liechtenstein and Spain.

11. The CAHDI held an exchange of views on developments concerning protection of sub aquatic cultural heritage and work under way within the framework of UNESCO and agreed on the importance of securing consensus of the delegations involved in this work.

12. The CAHDI decided to invite Professor James Crawford and Professor Bruno Simma, members of the International Law Commission (ILC) of the United Nations to its next meeting, in order to have an exchange of views respectively on the ILC activity on State responsibility, and on other ongoing activities of the ILC.

13. The CAHDI decided to hold its next meeting in September 2001 and instructed the Secretariat to inform delegations in consultation with the Chairman about the exact place and dates in the light of the decisions that will be taken regarding the meeting indicated under item 10., and adopted the preliminary draft agenda in Appendix III.

APPENDIX I

LIST OF PARTICIPANTS

ALBANIA/ALBANIE: Apologised/Excusé

ANDORRA/ANDORRE: Mrs Iolanda SOLA, Legal Adviser, Ministry of Foreign Affairs

ARMENIA/ARMENIE: Mme Satenik ABGARYAN, Ministère des Affaires Etrangères

AUSTRIA/AUTRICHE: Mr Hans WINKLER, Ambassador, Legal Adviser, Ministry for Foreign Affairs

AZERBAIJAN/AZERBAIDJAN: Mr Rashad ASLANOV, Referent of the Treaty, Legal Department, Ministry of Foreign Affairs

BELGIUM/BELGIQUE: M. Jan DEVADDER, Directeur Général, Jurisconsulte, Ministère des Affaires Etrangères, du Commerce extérieur et de la Coopération internationale

Mme Anne-Marie SNYERS, Conseiller Général, Ministère des Affaires Etrangères

BULGARIA/BULGARIE: Mrs Katia TODOROVA, Director, Human Rights Directorate, Ministry of Foreign Affairs

CROATIA/CROATIE: Ms Ljerka ALAJBEG, Ambassador, Legal Adviser, International Law Department, Ministry of Foreign Affairs

CYPRUS/CHYPRE: Mrs Evie GEORGIOU-ANTONIOU, Counsel of the Republic, Attorney General's Office

CZECH REPUBLIC/REPUBLIQUE TCHEQUE: Mr Jaroslav HORAK, Legal Director, Ministry of Foreign Affairs

DENMARK/DANEMARK: Mr Hans KLINGENBERG, Ambassador, Head of the Legal Service, Ministry of Foreign Affairs

ESTONIA/ESTONIE: Mrs Marina KALJURAND, Director General of the Legal Department, Ministry of Foreign Affairs

FINLAND/FINLANDE: Mr Holger ROTKIRCH, Ambassador, Director General for Legal Affairs, Ministry for Foreign Affairs

FRANCE: M. Ronny ABRAHAM, Directeur des Affaires Juridiques, Ministère des Affaires étrangères

M. Denys WIBAUX, Sous-directeur de droit international, Ministère des Affaires étrangères, Direction des Affaires Juridiques

Mme Frédérique COULEE, Ministère des Affaires étrangères, Direction des Affaires Juridiques

GEORGIA/GEORGIE: Mr Paata BUCHUKURI, Counsellor, Council of Europe and Human Rights Division, International Law Department, Ministry of Foreign Affairs

GERMANY/ALLEMAGNE: Dr Gerd WESTDICKENBERG, Legal Adviser, Director General for Legal Affairs, Federal Foreign Office

GREECE/GRECE: Mr Alexandros KOLLIPOULOS, Rapporteur of the Legal Department, Ministry of Foreign Affairs

HUNGARY/HONGRIE: Mr Árpád PRANDLER, Ambassador, Head of the International Law Department, Ministry of Foreign Affairs

ICELAND/ISLANDE: Mr Tomas H. HEIDAR, Legal Adviser, Ministry for Foreign

ITALY/ITALIE: M. Umberto LEANZA, Chef du Service du Contentieux Diplomatique, Ministère des Affaires étrangères

Mme Francesca GRAZIANI, Consultant Juridique du Service du Contentieux Diplomatique, Ministère des Affaires étrangères

IRELAND/IRLANDE: Dr. Alpha CONNELLY, Legal Adviser, Legal Division, Department of Foreign Affairs

LATVIA/LETTONIE: Mrs Irina MANGULE, Head of Treaties Division, Legal Department, Ministry of Foreign Affairs

LIECHTENSTEIN: M. Daniel OSPELT, Vice-Directeur de l'Office pour les Affaires étrangères

LITHUANIA/LITUANIE: Mrs Sigute JAKŠTONYTĖ, Minister Counsellor, Deputy Director of Legal and International Treaties Department, Ministry of Foreign Affairs

LUXEMBOURG: -

MALTA/MALTE: Dr Lawrence QUINTANO, Senior Counsel for the Republic, Attorney General's Office

MOLDOVA: M. Vitalie SLONOVSKI, Directeur, Direction Générale de droit international et des Traités, Ministère des Affaires étrangères

NETHERLANDS/PAYS-BAS: Dr Liesbeth LIJNZAAD, Deputy Head, International Law Department, Legal Service, Ministry of Foreign Affairs

NORWAY/NORVEGE: Mr Jan BUGGE-MAHRT, Deputy Director General, Section for International Law, Royal Ministry of Foreign Affairs

Ms Martina ØSTERHUS, Higher Executive Officer, section for International Law, Legal Department, Ministry of Foreign Affairs

POLAND/POLOGNE: Apologised/Excusé

PORTUGAL: Mrs Margarida REI, Director of the Legal Department, Ministry of Foreign Affairs

ROMANIA/ROUMANIE: M. Bogdan Lucian AURESCU, Directeur, Direction du droit international et des Traités, Ministère des Affaires Etrangères

Mlle Irina-Elena DONCIU, Attachée, Direction du droit international et des Traités, Ministère des Affaires Etrangères

RUSSIAN FEDERATION/FEDERATION DE RUSSIE: Mr Ilya ROGACHEV, Head of Division of the Legal Department, Ministry of Foreign Affairs

SAN MARINO/SAINT MARIN: -

SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE: Mr Peter TOMKA, Ambassador, Permanent Representative to the UN, Permanent Mission of Slovakia to the United Nations
(Chairman/Président)

M. Jan VARŠO, Directeur Général de la Section du droit international et Consulaire, Jurisconsulte du Ministère des Affaires étrangères

SLOVENIA/SLOVENIE: Apologised/Excusé

SPAIN/ESPAGNE: Mr Aurelio PEREZ GIRALDA, Ambassadeur, Directeur du Département de Droit International, Ministère des Affaires Extérieures

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

SWEDEN/SUEDE: Mr Lars MAGNUSON, Ambassador, Director General for Legal Affairs, Ministry for Foreign Affairs

SWITZERLAND/SUISSE: M. l'Ambassadeur Nicolas MICHEL, Jurisconsulte, Directeur de la Direction du Droit international public, Département fédéral des affaires étrangères, (Vice-Chairman/Vice-Président)

M. Emmanuel BICHET, Collaborateur personnel du directeur de la Direction du Droit International Public, Direction du Droit International Public, Département fédéral des Affaires

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

TURKEY/TURQUIE: M. Yasar ÖZBEK, Conseiller Juridique, Ministère des Affaires étrangères, Section juridique

UKRAINE: Mr Olexandre KUPCHYSHYN, Director General, Legal and Treaty Department, Ministry for Foreign Affairs

UNITED KINGDOM/ROYAUME-UNI: Mr Michael WOOD CMG, Legal Adviser,
Foreign and Commonwealth Office
Mr Dominic RAAB, Assistant Legal Adviser, Foreign and Commonwealth Office

SPECIAL GUESTS/INVITES SPECIAUX

M. Gilbert GUILLAUME, Président de la Cour internationale de Justice

M. Hans Christian KRÜGER, Deputy Secretary General of the Council of Europe/Secrétaire
Général adjoint du Conseil de l'Europe

M. Marc FISCHBACH, Judge/Juge, European Court of Human Rights/Cour européenne des
droits de l'homme

EUROPEAN COMMUNITY/COMMUNAUTE EUROPEENNE

EUROPEAN COMMISSION/COMMISSION EUROPEENNE: Apologised/Excusé

OBSERVERS/ OBSERVATEURS

CANADA: Mr Alain TELLIER, 1^{er} Secrétaire, Mission Permanente du Canada auprès de
l'Office des Nations Unies à Genève

HOLY SEE/SAINT-SIEGE: Mme Odile GANGHOFER, Docteur en droit, Mission
Permanente du Saint-Siège

JAPAN/JAPON: M. Yoshihide ASAKURA, Consul, Consulat Général du Japon

M. Pierre DREYFUS, Assistant, Consulat Général du Japon

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE: Mr Robert E. DALTON,
Assistant Legal Adviser for Treaty Affairs – Department of State, USA WASHINGTON DC

MEXICO/MEXIQUE: Apologised/Excusé

AUSTRALIA/AUSTRALIE: -

ISRAEL: Mrs Hemda GOLAN, Deputy Legal Adviser, Director of the Treaties Division,
Ministry of Foreign Affairs

NEW ZELAND/NOUVELLE ZELANDE: -

**THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW/CONFERENCE
DE LA HAYE DE DROIT INTERNATIONAL PRIVE:** Apologised/Excusé

**NORTH ATLANTIC TREATY ORGANISATION/ORGANISATION DU TRAITE DE
L'ATLANTIQUE NORD:** -

ORGANISATION FOR ECONOMIC CO-OPERATION AND

**DEVELOPMENT/ORGANISATION DE COOPERATION ET DE DEVELOPPEMENT
ECONOMIQUES:** Apologised/Excusé

BOSNIA AND HERZEGOVINA/BOSNIE-HERZEGOVINE: Mrs Jasmina KURBASIC,
Department for the International Legal Affairs, Ministry of Foreign Affairs

SECRETARIAT GENERAL

M. Guy DE VEL, Director General of Legal Affairs/Directeur Général des Affaires Juridiques

M. Alexey KOZHEMYAKOV, Head of the Department of Public Law/Chef du Service du droit public

Mr Rafael A. BENITEZ, Secretary of the CAHDI/Secrétaire du CAHDI, Department of Public Law/Service du Droit public

M. Jörg POLAKIEWICZ, Deputy Head of Legal Advice Department and Treaty Office/Adjoint au Chef du Service du Conseil Juridique et Bureau des

Mme Francine NAAS, Assistant/Assistante, Department of Public Law/Service du Droit public

INTERPRETERS/INTERPRETES

Mlle Rebecca EDGINGTON

Mme Angela BREWER

Mme Marianne HUMMEL

Mme Marie-José HALT

Mme Pascale MICHLIN

M. André BERNHARD

APPENDIX IIAGENDAA. INTRODUCTION

1. Opening of the meeting by the Chairman, Ambassador Mr Tomka
2. Adoption of the agenda
3. Communication by the Director general of Legal Affairs, Mr. De Vel

B. ONGOING ACTIVITIES OF THE CAHDI

4. Decisions by the Committee of Ministers concerning the CAHDI
5. The law and practice relating to reservations and interpretative declarations concerning international treaties : European Observatory of Reservations to international Treaties
6. Expression of consent by States to be bound by a treaty
7. Discussion on future activities

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

8. Communication and Exchange of views with the President of the International Court of Justice, Mr Guillaume
9. Implementation of international instruments protecting the victims of armed conflicts
10. Developments concerning the International Criminal Court
11. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)
12. Law of the Sea : Protection of Sub aquatic Cultural Heritage
13. Developments concerning the preparation of a Charter of Fundamental Rights in the European Union: Exchange of views with Mr. H.C. Krüger, Deputy Secretary General of the Council of Europe and Mr Fischbach, Judge at the European Court of Human Rights

D. OTHER

14. Date, place and agenda of the 22nd meeting of the CAHDI
15. Other business
16. Closing

APPENDIX III

PRELIMINARY DRAFT AGENDA

A. INTRODUCTION

1. Opening of the meeting by the Chairman, Ambassador Mr Tomka
2. Adoption of the agenda
3. Communication by the Director general of Legal Affairs, Mr. De Vel

B. ONGOING ACTIVITIES OF THE CAHDI

4. Decisions by the Committee of Ministers concerning the CAHDI
5. The law and practice relating to reservations and interpretative declarations concerning international treaties : European Observatory of Reservations to international Treaties
6. Expression of consent by States to be bound by a treaty: Presentation to the Secretary General of the Council of Europe of the report prepared under the aegis of the CAHDI
7. State practice regarding State immunities: adoption of a draft questionnaire
8. Immunities of certain categories of persons - preliminary consideration

D. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

9. The work of the Sixth Commission of the General Assembly of United Nations and of the International Law Commission (ILC):
 - Exchange of views with Professor James Crawford, Special Rapporteur of the United Nations on State Responsibility
 - Exchange of views with Professor Bruno Simma on other activities of ILC
10. Implementation of international instruments protecting the victims of armed conflicts
11. Developments concerning the International Criminal Court
12. Implementation and functioning of the Tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)
13. Law of the Sea: Protection of Sub aquatic Cultural Heritage

D. OTHER

14. Election of the Chair and Vice-Chair
15. Date, place and agenda of the 22nd meeting of the CAHDI
16. Other business

17. Closing