

**DRAFT OPINION OF THE CAHDI ON PARLIAMENTARY ASSEMBLY
RECOMMENDATION 1382 (1998) ON DRAWING UP OF A EUROPEAN CODE OF
CONDUCT ON ARMS SALES**

The *Ad Hoc* Committee of Legal Advisers on Public International Law (CAHDI) held its 17th meeting in Vienna on 8-9 March 1999. The agenda included an item on "Decisions of the Committee of Ministers concerning the CAHDI". In the framework of this item, pursuant to the Committee of Ministers' decision at their 661st meeting, Strasbourg, 24-26 February 1999, members of the CAHDI were invited to give an opinion on Parliamentary Assembly Recommendation 1382 (1998) on Drawing up of a European Code of Conduct on arms sales in the light of the exchange of views held by the Group of Rapporteurs on Legal Co-operation (GR-J).

The CAHDI held an exchange of views to the extent possible within the time available, and concentrated, in accordance with its terms of reference and its role in the Council of Europe intergovernmental structure, on what it understood to be the international public law issues connected with the Parliamentary Assembly Recommendation.

Although the sale of arms and their widespread availability may have human rights implications, the CAHDI considers that it is up to the Committee of Ministers to establish this link and to consider whether it requires action by the Council of Europe.

Further to that, the CAHDI wishes to stress that a Convention is not the only means in achieving harmonisation of legislation and administrative practices regulating conventional arms exports. That aim can also be achieved through alternative means including unilateral application by States of the existing instruments such as the European Union Code of Conduct on Arms Exports.

Moreover, the CAHDI notes that the proposal relating to the establishing of a mechanism of communication with the European Union requires further specification before advice can be given.

Finally, the CAHDI wishes to stress that it is essential to avoid duplication and to make the best use of comparative advantages of the various international organisations working in this area. In this connection, the OSCE has already carried out a survey on legislation in this field. In addition, significant work is carried out at the level of the United Nations as reflected, e.g. by resolutions of the General Assembly: 53/77 E on Small Arms and 53/77 T on Illicit Traffic in Small Arms, adopted at its 53rd meeting on 4 December 1998. Work in the UN in this field is carried out with the assistance of a Group of Governmental Experts on Small Arms, comprising representatives of 23 Member States (9 of which are European and 8 members of the Council of Europe).