

**DRAFT RECOMMENDATION REC(2008)... OF THE COMMITTEE OF MINISTERS TO
MEMBER STATES ON THE ACCEPTANCE OF THE JURISDICTION OF THE
INTERNATIONAL COURT OF JUSTICE**

1. The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe;
2. *Considering* that the aim of the Council of Europe is to achieve a greater unity between its members;
3. *Having regard* to the work of the Committee of Legal Advisers on Public International Law (CAHDI);
4. *Bearing in mind* the European Convention for the Peaceful Settlement of Disputes (ETS 23);
5. *Having regard to* the Charter of the United Nations and in particular to Articles 2, 7, 36 and 92 to 96, and to the Statute of the International Court of Justice;
6. *Recalling* that the International Court of Justice is the principal judicial organ of the United Nations;
7. *Bearing in mind* United Nations General Assembly resolution 3232 (XXIX) of 12 November 1974 and resolution 44/23 of 17 November 1989;
8. *Recalling* the United Nations Decade of International Law, which had as one of its main purposes the promotion of means and methods for the peaceful settlement of disputes between states, including resort to and full respect for the International Court of Justice ;
9. *Bearing in mind* the 2005 World Summit Outcome, adopted by General Assembly resolution 60/1 of 16 September 2005, in which the General Assembly called upon States which had not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute, as well as resolutions 61/39 of 4 December 2006 and 62/70 of 6 December 2007, in which the General Assembly repeated its call;
10. *Noting* that there is no requirement to make any reservations when accepting the jurisdiction of the International Court of Justice, and that some member States of the Council of Europe have indeed made declarations accepting the Court's jurisdiction without reservation;
11. *Stressing* that the list of Model Clauses appended to this Recommendation is in no way exclusive, and does not call into question other clauses that States may decide

to include in their declarations accepting the jurisdiction of the International Court of Justice;

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12. Recommends that the Governments of member States that have not yet done so consider accepting the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of its Statute and that, when doing so, they give consideration as appropriate to the Model Clauses appended to this Recommendation;

13. Requests the Secretary General to forward this Recommendation to the Secretary-General of the United Nations.

Appendix to Recommendation

MODEL CLAUSES FOR POSSIBLE INCLUSION IN DECLARATIONS OF ACCEPTANCE OF THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE UNDER ARTICLE 36, PARAGRAPH 2, OF THE STATUTE

1. Basic language accepting the Court's jurisdiction

"I hereby declare that [NAME OF STATE] recognizes [OR accepts] as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court"

2. Additional clauses which may be included in a Declaration accepting the Court's jurisdiction

A. Termination clause

"until [TIME-LIMIT] notice may be given to the Secretary-General of the United Nations withdrawing the declaration" OR "until such time as a notification may be given to the Secretary-General of the United Nations withdrawing the declaration [with effect from the moment of such notification/with effect from [DATE]]"

B. Clause excluding prior disputes

"over all disputes arising after [DATE], with regard to situations or facts subsequent to the same date"

or

"over all disputes, other than disputes arising prior to [DATE] or relating to facts or situations which occurred prior to that date"

C. Settlement by other method

“other than any dispute in respect of which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement”

D. Clause to avoid ‘surprise’ applications

“other than where the acceptance of the Court’s compulsory jurisdiction on behalf of any other party to the dispute was deposited less than [TIME-PERIOD] prior to the filing of the application bringing the dispute before the Court”

E. Variation clause

“The Government of [NAME OF STATE] also reserves the right [upon giving [TIME-PERIOD] notice/at any time], by means of a notification addressed to the Secretary-General of the United Nations, [and with effect from the moment of such notification,] either to add to, amend or withdraw any of the foregoing reservations or any other reservations that may hereafter be added.”