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COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
CAHDI

25th meeting
Strasbourg, 17-18 March 2003

DEVELOPMENTS CONCERNING THE INTERNATIONAL CRIMINAL COURT

Secretariat memorandum
prepared by the Directorate General of Legal Affairs

I. Nominations for judges of the International Criminal Court

First election
(first resumed session of the Assembly of States Parties,
held from 3 to 7 February 2003)

Elected Judges (in alphabetical order)

	Name (round elected)	Nationality	Gender	Term of office
List A:				
1.	<u>CLARK, Maureen Harding</u> (1st)	Ireland	Female	9 years
2.	<u>DIARRA, Fatoumata Dembele</u> (1st)	Mali	Female	9 years
3.	<u>FULFORD, Adrian</u> (9th)	United Kingdom	Male	9 years
4.	<u>HUDSON-PHILLIPS, Karl T.</u> (3rd)	Trinidad and Tobago	Male	9 years
5.	<u>JORDA, Claude</u> (33rd)	France	Male	6 years
6.	<u>ODIO BENITO, Elizabeth</u> (1st)	Costa Rica	Female	9 years
7.	<u>PIKIS, Gheorghios M.</u> (4th)	Cyprus	Male	6 years
8.	<u>SLADE, Tuiloma Neroni</u> (28th)	Samoa	Male	3 years
9.	<u>SONG, Sang-hyun</u> (1st)	Republic of Korea	Male	3 years
10.	<u>STEINER, Sylvia H. de Figueiredo</u> (1st)	Brazil	Female	9 years
List B:				
1.	<u>BLATTMANN, René</u> (13th)	Bolivia	Male	6 years
2.	<u>KAUL, Hans-Peter</u> (9th)	Germany	Male	3 years
3.	<u>KIRSCH, Philippe</u> (4th)	Canada	Male	6 years
4.	<u>KOURULA, Erkki</u> (4th)	Finland	Male	3 years
5.	<u>KUENYEHIA, Akua</u> (1st)	Ghana	Female	3 years
6.	<u>PILLAY, Navanethem</u> (1st)	South Africa	Female	6 years
7.	<u>POLITI, Mauro</u> (21st)	Italy	Male	6 years
8.	<u>USACKA, Anita</u> (9th)	Latvia	Female	3 years

II. State of signatures and ratifications of the Rome Statute of the International Criminal Court (Rome, 17 July 1998)
(as of 20/02/2003)

Entry into force: 1 July 2002, in accordance with article 126.

Registration: 1 July 2002, No. 38544.

Status: Signatories: 139 ,Parties: 89.
Doc. A/CONF.183/9 of 17 July 1998; depositary notifications C.N.577.1998.TREATIES-8 of 10 November 1998¹ and CN.604.1999.TREATIES-18 of 12 July 1999 [procès-verbaux of rectification of the original of the Statute (Arabic, Chinese, English, French, Russian and Spanish authentic texts)]; C.N.1075.1999.TREATIES-28 of 30 November 1999 [procès-verbal of rectification of the original text of the Statute (French and Spanish authentic texts)]; C.N.266.2000.TREATIES-8 of 8 May 2000 [procès-verbal of rectification of the original text of the Statute (French and Spanish authentic texts)]; C.N.17.2001.TREATIES-1 of 17 January 2001 [procès-verbal of rectification of the Statute (authentic French, Russian and Spanish texts)]; C.N.765.2001.TREATIES-18 of 20 September 2001 (Proposals for corrections to the original text of the Statute (Spanish authentic text)) and C.N.1439.2001.TREATIES-28 of 16 January 2002 (Procès-verbal).

Text:

Note: The Statute was adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. In accordance with its article 125, the Statute was opened for signature by all States in Rome at the Headquarters of the Food and Agriculture Organization of the United Nations on 17 July 1998. Thereafter, it was opened for signature in Rome at the Ministry of Foreign Affairs of Italy until 17 October 1998. After that date, the Statute was opened for signature in New York, at United Nations Headquarters, where it will be until 31 December 2000.

PARTICIPANTS

Participant	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Afghanistan		10 Feb 2003 a
Albania	18 Jul 1998	31 Jan 2003
Algeria	28 Dec 2000	
Andorra	18 Jul 1998	30 Apr 2001
Angola	7 Oct 1998	
Antigua and Barbuda	23 Oct 1998	18 Jun 2001
Argentina	8 Jan 1999	8 Feb 2001
Armenia	1 Oct 1999	
Australia	9 Dec 1998	1 Jul 2002
Austria	7 Oct 1998	28 Dec 2000
Bahamas	29 Dec 2000	
Bahrain	11 Dec 2000	
Bangladesh	16 Sep 1999	
Barbados	8 Sep 2000	10 Dec 2002
Belgium	10 Sep 1998	28 Jun 2000
Belize	5 Apr 2000	5 Apr 2000
Benin	24 Sep 1999	22 Jan 2002
Bolivia	17 Jul 1998	27 Jun 2002
Bosnia and Herzegovina	17 Jul 2000	11 Apr 2002
Botswana	8 Sep 2000	8 Sep 2000
Brazil	7 Feb 2000	20 Jun 2002
Bulgaria	11 Feb 1999	11 Apr 2002
Burkina Faso	30 Nov 1998	
Burundi	13 Jan 1999	
Cambodia	23 Oct 2000	11 Apr 2002
Cameroon	17 Jul 1998	
Canada	18 Dec 1998	7 Jul 2000
Cape Verde	28 Dec 2000	
Central African Republic	7 Dec 1999	3 Oct 2001
Chad	20 Oct 1999	
Chile	11 Sep 1998	
Colombia	10 Dec 1998	5 Aug 2002
Comoros	22 Sep 2000	
Congo	17 Jul 1998	
Costa Rica	7 Oct 1998	7 Jun 2001
Côte d'Ivoire	30 Nov 1998	
Croatia	12 Oct 1998	21 May 2001
Cyprus	15 Oct 1998	7 Mar 2002
Czech Republic	13 Apr 1999	
Democratic Republic of the Congo	8 Sep 2000	11 Apr 2002
Denmark ²	25 Sep 1998	21 Jun 2001
Djibouti	7 Oct 1998	5 Nov 2002
Dominica		12 Feb 2001 a

Dominican Republic	8 Sep 2000	
Ecuador	7 Oct 1998	5 Feb 2002
Egypt	26 Dec 2000	
Eritrea	7 Oct 1998	
Estonia	27 Dec 1999	30 Jan 2002
Fiji	29 Nov 1999	29 Nov 1999
Finland	7 Oct 1998	29 Dec 2000
France	18 Jul 1998	9 Jun 2000
Gabon	22 Dec 1998	20 Sep 2000
Gambia	4 Dec 1998	28 Jun 2002
Georgia	18 Jul 1998	
Germany	10 Dec 1998	11 Dec 2000
Ghana	18 Jul 1998	20 Dec 1999
Greece	18 Jul 1998	15 May 2002
Guinea	7 Sep 2000	
Guinea-Bissau	12 Sep 2000	
Guyana	28 Dec 2000	
Haiti	26 Feb 1999	
Honduras	7 Oct 1998	1 Jul 2002
Hungary	15 Jan 1999	30 Nov 2001
Iceland	26 Aug 1998	25 May 2000
Iran (Islamic Republic of)	31 Dec 2000	
Ireland	7 Oct 1998	11 Apr 2002
Israel ³	31 Dec 2000	
Italy	18 Jul 1998	26 Jul 1999
Jamaica	8 Sep 2000	
Jordan	7 Oct 1998	11 Apr 2002
Kenya	11 Aug 1999	
Kuwait	8 Sep 2000	
Kyrgyzstan	8 Dec 1998	
Latvia	22 Apr 1999	28 Jun 2002
Lesotho	30 Nov 1998	6 Sep 2000
Liberia	17 Jul 1998	
Liechtenstein	18 Jul 1998	2 Oct 2001
Lithuania	10 Dec 1998	
Luxembourg	13 Oct 1998	8 Sep 2000
Madagascar	18 Jul 1998	
Malawi	2 Mar 1999	19 Sep 2002
Mali	17 Jul 1998	16 Aug 2000
Malta	17 Jul 1998	29 Nov 2002
Marshall Islands	6 Sep 2000	7 Dec 2000
Mauritius	11 Nov 1998	5 Mar 2002
Mexico	7 Sep 2000	
Monaco	18 Jul 1998	
Mongolia	29 Dec 2000	11 Apr 2002
Morocco	8 Sep 2000	
Mozambique	28 Dec 2000	

Namibia	27 Oct 1998	25 Jun 2002
Nauru	13 Dec 2000	12 Nov 2001
Netherlands ⁴	18 Jul 1998	17 Jul 2001 A
New Zealand ⁵	7 Oct 1998	7 Sep 2000
Niger	17 Jul 1998	11 Apr 2002
Nigeria	1 Jun 2000	27 Sep 2001
Norway	28 Aug 1998	16 Feb 2000
Oman	20 Dec 2000	
Panama	18 Jul 1998	21 Mar 2002
Paraguay	7 Oct 1998	14 May 2001
Peru	7 Dec 2000	10 Nov 2001
Philippines	28 Dec 2000	
Poland	9 Apr 1999	12 Nov 2001
Portugal	7 Oct 1998	5 Feb 2002
Republic of Korea	8 Mar 2000	13 Nov 2002
Republic of Moldova	8 Sep 2000	
Romania	7 Jul 1999	11 Apr 2002
Russian Federation	13 Sep 2000	
Saint Lucia	27 Aug 1999	
Saint Vincent and the Grenadines		3 Dec 2002 a
Samoa	17 Jul 1998	16 Sep 2002
San Marino	18 Jul 1998	13 May 1999
Sao Tome and Principe	28 Dec 2000	
Senegal	18 Jul 1998	2 Feb 1999
Seychelles	28 Dec 2000	
Sierra Leone	17 Oct 1998	15 Sep 2000
Slovakia	23 Dec 1998	11 Apr 2002
Slovenia	7 Oct 1998	31 Dec 2001
Solomon Islands	3 Dec 1998	
South Africa	17 Jul 1998	27 Nov 2000
Spain	18 Jul 1998	24 Oct 2000
Sudan	8 Sep 2000	
Sweden	7 Oct 1998	28 Jun 2001
Switzerland	18 Jul 1998	12 Oct 2001
Syrian Arab Republic	29 Nov 2000	
Tajikistan	30 Nov 1998	5 May 2000
Thailand	2 Oct 2000	
The Former Yugoslav Republic of Macedonia	7 Oct 1998	6 Mar 2002
Timor-Leste		6 Sep 2002 a
Trinidad and Tobago	23 Mar 1999	6 Apr 1999
Uganda	17 Mar 1999	14 Jun 2002
Ukraine	20 Jan 2000	
United Arab Emirates	27 Nov 2000	
United Kingdom of Great Britain and Northern Ireland	30 Nov 1998	4 Oct 2001
United Republic of Tanzania	29 Dec 2000	20 Aug 2002

United States of America ⁶	31 Dec 2000	
Uruguay	19 Dec 2000	28 Jun 2002
Uzbekistan	29 Dec 2000	
Venezuela	14 Oct 1998	7 Jun 2000
Yemen	28 Dec 2000	
Yugoslavia	19 Dec 2000	6 Sep 2001
Zambia	17 Jul 1998	13 Nov 2002
Zimbabwe	17 Jul 1998	

Declarations and Reservations

(Unless otherwise indicated, the declarations and reservations were made upon ratification, acceptance, approval or accession)

Andorra

Declaration:

With regard to article 103, paragraph 1 (a) and (b) of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that it would, if necessary, be willing to accept persons of Andorran nationality sentenced by the Court, provided that the sentence imposed by the Court was enforced in accordance with Andorran legislation on the maximum duration of sentences.

Australia

Declaration:

"The Government of Australia, having considered the Statute, now hereby ratifies the same, for and on behalf of Australia, with the following declaration, the terms of which have full effect in Australian law, and which is not a reservation:

Australia notes that a case will be inadmissible before the International Criminal Court (the Court) where it is being investigated or prosecuted by a State. Australia reaffirms the primacy of its criminal jurisdiction in relation to crimes within the jurisdiction of the Court. To enable Australia to exercise its jurisdiction effectively, and fully adhering to its obligations under the Statute of the Court, no person will be surrendered to the Court by Australia until it has had the full opportunity to investigate or prosecute any alleged crimes. For this purpose, the procedure under Australian law implementing the Statute of the Court provides that no person can be surrendered to the Court unless the Australian Attorney-General issues a certificate allowing surrender. Australian law also provides that no person can be arrested pursuant to an arrest warrant issued by the Court without a certificate from the Attorney-General.

Australia further declares its understanding that the offences in Article 6, 7 and 8 will be interpreted and applied in a way that accords with the way they are implemented in Australian domestic law."

Belgium

Declaration concerning article 31, paragraph 1 (c):

Pursuant to article 21, paragraph 1 (b) of the Statute and having regard to the rules of international humanitarian law which may not be derogated from, the Belgian Government considers that article 31, paragraph 1 (c), of the Statute can be applied and interpreted only in conformity with those rules.

Colombia

Declarations:

1. None of the provisions of the Rome Statute concerning the exercise of jurisdiction by the International Criminal Court prevent the Colombian State from granting amnesties, reprieves or judicial pardons for political crimes, provided that they are granted in conformity with the Constitution and with the principles and norms of international law accepted by Colombia.

Colombia declares that the provisions of the Statute must be applied and interpreted in a manner consistent with the provisions of international humanitarian law and, consequently, that nothing in the Statute affects the rights and obligations embodied in the norms of international humanitarian law, especially those set forth in article 3 common to the four Geneva Conventions and in Protocols I and II Additional thereto.

Likewise, in the event that a Colombian national has to be investigated and prosecuted by the International Criminal Court, the Rome Statute must be interpreted and applied, where appropriate, in accordance with the principles and norms of international humanitarian law and international human rights law.

2. With respect to articles 61(2)(b) and 67(1)(d), Colombia declares that it will always be in the interests of justice that Colombian nationals be fully guaranteed the right of defence, especially the right to be assisted by counsel during the phases of investigation and prosecution by the International Criminal Court.

3. Concerning article 17(3), Colombia declares that the use of the word "otherwise" with respect to the determination of the State's ability to investigate or prosecute a case refers to the obvious absence of objective conditions necessary to conduct the trial.

4. Bearing in mind that the scope of the Rome Statute is limited exclusively to the exercise of complementary jurisdiction by the International Criminal Court and to the cooperation of national authorities with it, Colombia declares that none of the provisions of the Rome Statute alters the domestic law applied by the Colombian judicial authorities in exercise of their domestic jurisdiction within the territory of the Republic of Colombia.

5. Availing itself of the option provided in article 124 of the Statute and subject to the conditions established therein, the Government of Colombia declares that it does not accept the jurisdiction of the Court with respect to the category of crimes referred to in article 8 when a crime is alleged to have been committed by Colombian nationals or on Colombian territory.

6. In accordance with article 87(1)(a) and the first paragraph of article 87(2), the Government of Colombia declares that requests for cooperation or assistance shall be transmitted through the diplomatic channel and shall either be in or be accompanied by a translation into the Spanish language.

Egypt

Upon signature:

Declarations:

...

2. The Arab Republic of Egypt affirms the importance of the Statute being interpreted and applied in conformity with the general principles and fundamental rights which are universally recognized and accepted by the whole international community and with the principles,

purposes and provisions of the Charter of the United Nations and the general principles and rules of international law and international humanitarian law. It further declares that it shall interpret and apply the references that appear in the Statute of the Court to the two terms fundamental rights and international standards on the understanding that such references are to the fundamental rights and internationally recognized norms and standards which are accepted by the international community as a whole.

3. The Arab Republic of Egypt declares that its understanding of the conditions, measures and rules which appear in the introductory paragraph of article 7 of the Statute of the Court is that they shall apply to all the acts specified in that article.

4. The Arab Republic of Egypt declares that its understanding of article 8 of the Statute of the Court shall be as follows:

(a) The provisions of the Statute with regard to the war crimes referred to in article 8 in general and article 8, paragraph 2 (b) in particular shall apply irrespective of the means by which they were perpetrated or the type of weapon used, including nuclear weapons, which are indiscriminate in nature and cause unnecessary damage, in contravention of international humanitarian law.

(b) The military objectives referred to in article 8, paragraph 2 (b) of the Statute must be defined in the light of the principles, rules and provisions of international humanitarian law. Civilian objects must be defined and dealt with in accordance with the provisions of the Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I) and, in particular, article 52 thereof. In case of doubt, the object shall be considered to be civilian.

(c) The Arab Republic of Egypt affirms that the term "the concrete and direct overall military advantage anticipated" used in article 8, paragraph 2 (b) (iv), must be interpreted in the light of the relevant provisions of the Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I). The term must also be interpreted as referring to the advantage anticipated by the perpetrator at the time when the crime was committed. No justification may be adduced for the nature of any crime which may cause incidental damage in violation of the law applicable in armed conflicts. The overall military advantage must not be used as a basis on which to justify the ultimate goal of the war or any other strategic goals. The advantage anticipated must be proportionate to the damage inflicted.

(d) Article 8, paragraph 2 (b) (xvii) and (xviii) of the Statute shall be applicable to all types of emissions which are indiscriminate in their effects and the weapons used to deliver them, including emissions resulting from the use of nuclear weapons.

5. The Arab Republic of Egypt declares that the principle of the non-retroactivity of the jurisdiction of the Court, pursuant to articles 11 and 24 of the Statute, shall not invalidate the well established principle that no war crime shall be barred from prosecution due to the statute of limitations and no war criminal shall escape justice or escape prosecution in other legal jurisdictions.

France

I. Interpretative declarations:

1. The provisions of the Statute of the International Criminal Court do not preclude France from exercising its inherent right of self-defence in conformity with Article 51 of the Charter.

2. The provisions of article 8 of the Statute, in particular paragraph 2 (b) thereof, relate solely to conventional weapons and can neither regulate nor prohibit the possible use of nuclear weapons nor impair the other rules of international law applicable to other weapons necessary to the exercise by France of its inherent right of self-defence, unless nuclear weapons or the other weapons referred to herein become subject in the future to a comprehensive ban and are specified in an annex to the Statute by means of an amendment adopted in accordance with the provisions of articles 121 and 123.

3. The Government of the French Republic considers that the term 'armed conflict' in article 8, paragraphs 2 (b) and (c), in and of itself and in its context, refers to a situation of a kind which does not include the commission of ordinary crimes, including acts of terrorism, whether collective or isolated.

4. The situation referred to in article 8, paragraph 2 (b) (xxiii), of the Statute does not preclude France from directing attacks against objectives considered as military objectives under international humanitarian law.

5. The Government of the French Republic declares that the term "military advantage" in article 8, paragraph 2 (b) (iv), refers to the advantage anticipated from the attack as a whole and not from isolated or specific elements thereof. 6. The Government of the French Republic declares that a specific area may be considered a "military objective" as referred to in article 8, paragraph 2 (b) as a whole if, by reason of its situation, nature, use, location, total or partial destruction, capture or neutralization, taking into account the circumstances of the moment, it offers a decisive military advantage.

The Government of the French Republic considers that the provisions of article 8, paragraph 2 (b) (ii) and (v), do not refer to possible collateral damage resulting from attacks directed against military objectives.

7. The Government of the French Republic declares that the risk of damage to the natural environment as a result of the use of methods and means of warfare, as envisaged in article 8, paragraph 2 (b) (iv), must be weighed objectively on the basis of the information available at the time of its assessment.

...

III. Declaration under article 124:

Pursuant to article 124 of the Statute of the International Criminal Court, the French Republic declares that it does not accept the jurisdiction of the Court with respect to the category of crimes referred to in article 8 when a crime is alleged to have been committed by its nationals or on its territory.

Israel

Upon signature:

Declaration:

"Being an active consistent supporter of the concept of an International Criminal Court, and its realization in the form of the Rome Statute, the Government of the State of Israel is proud to thus express its acknowledgment of the importance, and indeed indispensability, of an effective court for the enforcement of the rule of law and the prevention of impunity.

As one of the originators of the concept of an International Criminal Court, Israel, through its prominent lawyers and statesmen, has, since the early 1950's, actively participated in all stages of the formation of such a court. Its representatives, carrying in both heart and mind collective, and sometimes personal, memories of the holocaust - the greatest and most heinous crime to have been committed in the history of mankind - enthusiastically, with a sense of acute sincerity and seriousness, contributed to all stages of the preparation of the Statute. Responsibly, possessing the same sense of mission, they currently support the work of the ICC Preparatory Commission.

At the 1998 Rome Conference, Israel expressed its deep disappointment and regret at the insertion into the Statute of formulations tailored to meet the political agenda of certain states. Israel warned that such an unfortunate practice might reflect on the intent to abuse the Statute as a political tool. Today, in the same spirit, the Government of the State of Israel signs the Statute while rejecting any attempt to interpret provisions thereof in a politically motivated manner against Israel and its citizens. The Government of Israel hopes that Israel's expressions of concern of any such attempt would be recorded in history as a warning against the risk of politicization, that might undermine the objectives of what is intended to become a central impartial body, benefiting mankind as a whole.

Nevertheless, as a democratic society, Israel has been conducting ongoing political, public and academic debates concerning the ICC and its significance in the context of international law and the international community. The Court's essentiality - as a vital means of ensuring that criminals who commit genuinely heinous crimes will be duly brought to justice, while other potential offenders of the fundamental principles of humanity and the dictates of public conscience will be properly deterred - has never ceased to guide us. Israel's signature of the Rome Statute will, therefore, enable it to morally identify with this basic idea, underlying the establishment of the Court.

Today, [the Government of Israel is] honoured to express [its] sincere hopes that the Court, guided by the cardinal judicial principles of objectivity and universality, will indeed serve its noble and meritorious objectives."

Jordan

Interpretative declaration:

"The Government of the Hashemite Kingdom of Jordan hereby declares that nothing under its national law including the Constitution, is inconsistent with the Rome Statute of the International Criminal Court. As such, it interprets such national law as giving effect to the full application of the Rome Statute and the exercise of relevant jurisdiction thereunder."

Liechtenstein

Declaration pursuant to article 103, paragraph 1 of the Statute:

" Pursuant to article 103, paragraph 1 of the Statute, the Principality of Liechtenstein declares its willingness to accept persons sentenced to imprisonment by the Court, for purposes of execution of the sentence, if the persons are Liechtenstein citizens or if the persons' usual residence is in the Principality of Liechtenstein".

Malta

Declarations:

"Article 20, paragraphs 3 (a) and (b).

With regard to article 20 paragraphs 3 (a) and (b) of the Rome Statute of the International Criminal Court Malta declares that according to its constitution no person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence save upon the order of a superior court made in the course of appeal or review proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

It is presumed that under the general principles of law a trial as described in paragraphs 3 (a) and (b) of Article 20 of the Statute would be considered a nullity and would not be taken into account in the application of the above constitutional rule. However, the matter has never been the subject of any judgment before the Maltese courts.

The prerogative of mercy will only be exercised in Malta in conformity with its obligations under International law including those arising from the Rome Statute of the International Criminal Court."

New Zealand

Declaration:

"1. The Government of New Zealand notes that the majority of the war crimes specified in article 8 of the Rome Statute, in particular those in article 8 (2) (b) (i)-(v) and 8 (2) (e) (i)-(iv) (which relate to various kinds of attacks on civilian targets), make no reference to the type of the weapons employed to commit the particular crime. The Government of New Zealand recalls that the fundamental principle that underpins international humanitarian law is to mitigate and circumscribe the cruelty of war for humanitarian reasons and that, rather than being limited to weaponry of an earlier time, this branch of law has evolved, and continues to evolve, to meet contemporary circumstances. Accordingly, it is the view of the Government of New Zealand that it would be inconsistent with principles of international humanitarian law to purport to limit the scope of article 8, in particular article 8 (2) (b), to events that involve conventional weapons only.

2. The Government of New Zealand finds support for its view in the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons* (1996) and draws attention to paragraph 86, in particular, where the Court stated that the conclusion that humanitarian law did not apply to such weapons "would be incompatible with the intrinsically humanitarian character of the legal principles in question which permeates the entire law of armed conflict and applies to all forms of warfare and to all kinds of weapons, those of the past, those of the present and those of the future."

3. The Government of New Zealand further notes that international humanitarian law applies equally to aggressor and defender states and its application in a particular context is not dependent on a determination of whether or not a state is acting in self-defence. In this respect it refers to paragraphs 40-42 of the Advisory Opinion in the *Nuclear Weapons Case*."

Portugal

Declaration:

"... with the following declaration:

The Portuguese Republic declares the intention to exercise its jurisdictional powers over every person found in the Portuguese territory, that is being prosecuted for the crimes set forth in article 5, paragraph 1 of the Rome Statute of the International Criminal Court, within the respect for the Portuguese criminal legislation. ..."

Slovakia

Declaration:

" Pursuant to Article 103, paragraph 1 (b) of the Statute the Slovak Republic declares that it would accept, if necessary, persons sentenced by the Court, if the persons are citizens of the Slovak Republic or have a permanent residence in its territory, for purposes of execution of the sentence of imprisonment and at the same time it will apply the principle of conversion of sentence imposed by the Court."

Spain

Declaration under article 103, paragraph 1(b):

Spain declares its willingness to accept at the appropriate time, persons sentenced by the International Criminal Court, provided that the duration of the sentence does not exceed the maximum stipulated for any crime under Spanish law.

Sweden

Statement:

"In connection with the deposit of its instrument of ratification of the Rome Statute of the International Criminal Court and, with regard to the war crimes specified in Article 8 of the Statute which relate to the methods of warfare, the Government of the Kingdom of Sweden would like to recall the Advisory Opinion given by the International Court of Justice on 8 July 1996 on the Legality of the Threat or Use of Nuclear Weapons, and in particular paragraphs 85 to 87 thereof, in which the Court finds that there can be no doubt as to the applicability of humanitarian law to nuclear weapons."

Switzerland

Declaration:

In accordance with article 103, paragraph 1, of the Statute, Switzerland declares that it is prepared to be responsible for enforcement of sentences of imprisonment handed down by the Court against Swiss nationals or persons habitually resident in Switzerland.

United Kingdom of Great Britain and Northern Ireland

Declaration:

"The United Kingdom understands the term "the established framework of international law", used in article 8 (2) (b) and (e), to include customary international law as established by State practice and *opinio iuris*. In that context the United Kingdom confirms and draws to the attention of the Court its views as expressed, inter alia, in its statements made on ratification of relevant instruments of international law, including the Protocol Additional to the Geneva

Conventions of 12th August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8th June 1977."

Uruguay

Interpretative declaration:

As a State party to the Rome Statute, the Eastern Republic of Uruguay shall ensure its application to the full extent of the powers of the State insofar as it is competent in that respect and in strict accordance with the Constitutional provisions of the Republic.

Pursuant to the provisions of part 9 of the Statute entitled "International cooperation and judicial assistance", the Executive shall within six months refer to the Legislature a bill establishing the procedures for ensuring the application of the Statute.

Notifications made under article 87, paragraphs 1 and 2

(Unless otherwise indicated, the declarations and reservations were made upon ratification, acceptance, approval or accession.)

Andorra

With regard to article 87, paragraph 1, of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that all requests for cooperation made by the Court under part IX of the Statute must be transmitted through the diplomatic channel.

With regard to article 87, paragraph 2, of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that all requests for cooperation and any supporting documents that it receives from the Court must, in accordance with article 50 of the Statute establishing Arabic, Chinese, English, French, Russian and Spanish as the official languages of the Court, be drafted in French or Spanish or accompanied, where necessary, by a translation into one of these languages.

Argentina

With regard to article 87, paragraph 2, of the Statute, the Argentine Republic hereby declares that requests for cooperation coming from the Court, and any accompanying documentation, shall be in Spanish or shall be accompanied by a translation into Spanish.

Austria

"Pursuant to article 87, paragraph 2 of the Rome Statute the Republic of Austria declares that requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into the German language."

Belgium

With reference to article 87, paragraph 1, of the Statute, the Kingdom of Belgium declares that the Ministry of Justice is the authority competent to receive requests for cooperation.

With reference to article 87, paragraph 2, the Kingdom of Belgium declares that requests by the Court for cooperation and any documents supporting the request shall be in an official language of the Kingdom.

Belize

"Pursuant to Article 87 (1) (a) of the Statute of the International Criminal Court, Belize declares that all requests made to it in accordance with Chapter 9 be sent through diplomatic channels."

Brazil

".....with regard to article 87, paragraph 2 of the said Statute, the official language of the Federative Republic of Brazil is Portuguese and that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in Portuguese or accompanied by a translation into Portuguese."

Cyprus

"1. Pursuant to article 87 (1) of the Rome Statute of the International [Criminal] Court, the Republic of Cyprus declares that requests from the Court may also be transmitted directly to the Ministry of Justice and Public Order.

2. Pursuant to article 87 (2) of the Rome Statute of the International Criminal Court, the Republic of Cyprus declares that requests from the Court for cooperation and any documents supporting them shall be transmitted also in English, which is one of the working languages of the Court."

Democratic Republic of the Congo

"Pursuant to article 87, paragraph 1 (a) of the Rome Statute of the International Criminal Court, requests for cooperation issued by the Court shall be transmitted to the Government Procurator's Office of the Democratic Republic of the Congo;

For any request for cooperation within the meaning of article 87, paragraph 1 (a) of the Statute, French shall be the official language."

Denmark

"Pursuant to article 87 (1) of the Statute, Denmark declares that requests from the Court shall be transmitted through the diplomatic channel or directly to the Ministry of Justice, which is the authority competent to receive such requests.

Pursuant to article 87 (2) of the Statute, Denmark declares that requests from the Court for cooperation and any documents supporting such requests shall be submitted either in Danish which is the official language of Denmark or in English, which is one of the working languages of the Court."

Egypt

Pursuant to article 87, paragraphs 1 and 2, the Arab Republic of Egypt declares that the Ministry of Justice shall be the party responsible for dealing with requests for cooperation with the Court. Such requests shall be transmitted through the diplomatic channel. Requests for cooperation and any documents supporting the request shall be in the Arabic language, being the official language of the State, and shall be accompanied by a translation into English being one of the working languages of the Court.

Estonia

"Pursuant to Article 87, paragraph 1 of the Statute the Republic of Estonia declares that the requests from the International Criminal Court shall be transmitted either through the diplomatic channels or directly to the Public Prosecutor's Office, which is the authority to receive such requests.

Pursuant to 87, paragraph 2 of the Statute the Republic of Estonia declares that requests from the International Criminal Court and any documents supporting such requests shall be submitted either in Estonian which is the official language of the Republic of Estonia or in English which is one of the working languages of the International Criminal Court."

Finland

"Pursuant to article 87 (1) (a) of the Statute, the Republic of Finland declares that requests for cooperation shall be transmitted either through the diplomatic channel or directly to the Ministry of Justice, which is the authority competent to receive such requests. The Court may also, if need be, enter into direct contact with other competent authorities of Finland. In matters relating to requests for surrender the Ministry of Justice is the only competent authority.

Pursuant to article 87 (2) of the Statute, the Republic of Finland declares that requests from the Court and any documents supporting such requests shall be submitted either in Finnish or Swedish, which are the official languages of Finland, or in English which is one of the working languages of the Court."

France

Pursuant to article 87, paragraph 2, of the Statute, the French Republic declares that requests for cooperation, and any documents supporting the request, addressed to it by the Court must be in the French language.

Gambia

"Pursuant to article 87 (1) of the Statute, the Republic of the Gambia declares that requests from the Court shall be transmitted through the diplomatic channel or directly to the Attorney General's Chambers and the Department of State for Justice, which is the authority competent to receive such request.

Pursuant to article 87 (2) of the Statute, the Republic of the Gambia declares that requests from the Court and any document supporting such requests shall be in English which is one of the working languages of the Court and the official language of the Republic of the Gambia."

Germany

"The Federal Republic of Germany declares, pursuant to article 87 (1) of the Rome Statute, that requests from the Court can also be transmitted directly to the Federal Ministry of Justice or an agency designated by the Federal Ministry of Justice in an individual case. Requests to the Court can be transmitted directly from the Federal Ministry of Justice or, with the Ministry's agreement, from another competent agency to the Court.

The Federal Republic of Germany further declares, pursuant to article 87 (2) of the Rome Statute, that requests for cooperation to Germany and any documents supporting the request must be accompanied by a translation into German."

Hungary

"... the Government of the Republic of Hungary makes the following declaration in relation to Article 87 of the Statute of the International Criminal Court (Rome, 17 July 1998):

Requests of the Court for cooperation shall be transmitted to the Government of the Republic of Hungary through diplomatic channel. These requests for cooperation and any documents supporting the request shall be made in English."

Latvia

"Pursuant to article 87, paragraph 2 of the Rome Statute of the International Criminal Court the Republic of Latvia declares that requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into the Latvian language."

Liechtenstein

"Declaration pursuant to article 87, paragraph 1 (a) of the Statute, concerning the central authority:

Requests of the Court made pursuant to article 87, paragraph 1 (a) of the Statute, shall be transmitted to the central authority for cooperation with the International Criminal Court, namely the Ministry of Justice of the Government of the Principality of Liechtenstein.

"Declaration pursuant to article 87, paragraph 1 (a) of the Statute, concerning direct service of documents:

Pursuant to article 87, paragraph 1 (a) of the Statute, the Court may serve in decisions and other records or documents upon recipients in the Principality of Liechtenstein directly by mail. A summons to appear before the Court as a witness or expert shall be accompanied by the Rule of Procedure and Evidence of the Court on self-incrimination; this Rule shall be given to the person concerned in a language that the person understands.

"Declaration pursuant to article 87, paragraph 2 of the Statute, concerning the official language:

The official language in the sense of article 87, paragraph 2 of the Statute is German. Requests and supporting documentation shall be submitted in the official language of the Principality of Liechtenstein, German, or translated into German.

Malta

"Malta declares, pursuant to article 87, paragraph 2 of the Statute, that requests for cooperation and any documents supporting the request, must be in English or accompanied, where necessary, by a translation into English."

Namibia

".....with reference to Article 87 paragraph 2 of the Rome Statute of the International Criminal Court, [the Republic of Namibia] declares that all requests for cooperation and any documents supporting the request, must either be in, or be accompanied by a translation into the English language."

Norway

"1. With reference to Article 87, paragraph 1 (a), the Kingdom of Norway hereby declares that the Royal Ministry of Justice is designated as the channel for the transmission of requests from the Court.

2. With reference to Article 87, paragraph 2, the Kingdom of Norway hereby declares that requests from the Court and any documents supporting the request shall be submitted in English, which is one of the working languages of the Court."

Poland

In accordance with Article 87 paragraph 2 of the Statute the Republic of Poland declares that applications on cooperation submitted by Court and documents added to them shall be made in Polish language.

Portugal

" With regard to article 87, paragraph 2 of the Rome Statute of the International Criminal Court, the Portuguese Republic declares that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in Portuguese or accompanied by a translation into Portuguese. "

Romania

"1. With reference to article 87 paragraph 1 (a) of the Statute, the Ministry of Justice is the Romanian authority competent to receive the requests of the International Criminal Court, to send them immediately for resolution to the Romanian judicial competent bodies, and to communicate to the International Criminal Court the relevant documents:

2. With reference to article 87 paragraph 2 of the Statute, the requests of the International Criminal Court and the relevant documents shall be transmitted in the English language, or accompanied by official translations in this language."

Slovakia

"Pursuant to Article 87, paragraph 2 of the Statute the Slovak Republic declares that requests from the Court for cooperation and any documents supporting such requests shall be submitted in English which is one of the working languages of the Court along with the translation into Slovak which is the official language of the Slovak Republic."

Spain

In relation to article 87, paragraph 1, of the Statute, the Kingdom of Spain declares that, without prejudice to the fields of competence of the Ministry of Foreign Affairs, the Ministry of Justice shall be the competent authority to transmit requests for cooperation made by the Court or addressed to the Court.

In relation to article 87, paragraph 2, of the Statute, the Kingdom of Spain declares that requests for cooperation addressed to it by the Court and any supporting documents must be in Spanish or accompanied by a translation into Spanish.

Sweden

"With regard to Article 87, paragraph 1, of the Rome Statute of the International Criminal Court, the Kingdom of Sweden declares that all requests for cooperation made by the Court under part IX of the Statute must be transmitted through the Swedish Ministry of Justice.

With regard to Article 87, paragraph 2, of the Rome Statute of the International Criminal Court, the Kingdom of Sweden declares that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in English or Swedish, or accompanied, where necessary, by a translation into one of these languages."

Switzerland

Requests for cooperation made by the Court under article 87, paragraph 1 (a), of the Statute shall be transmitted to the Central Office for Cooperation with the International Criminal Court of the Federal Bureau of Justice.

The official languages within the meaning of article 87, paragraph 2, of the Statute, shall be French, German and Italian.

The Court may serve notice of its decisions and other procedural steps or documents on the persons to whom such decisions or documents are addressed in Switzerland directly through the mail. Any summons to appear in Court as a witness or expert shall be accompanied by the provision of the Rules of Procedure and Evidence of the Court concerning self-incrimination; that provision shall be provided to the person concerned in a language which he or she is able to understand.

United Kingdom of Great Britain and Northern Ireland

" The United Kingdom declares, pursuant to article 87 (2) of the Statute, that requests for co-operation, and any documents supporting the request, must be in the English language."

Uruguay

19 July 2002

.....in accordance with article 87, paragraph 2, of the Statute of the International Criminal Court, the Government of the Eastern Republic of Uruguay wishes to inform the Secretary-General that requests for cooperation and any documents supporting such requests should be drawn up in Spanish or be accompanied by a translation into Spanish.

NOTES

1. On 6 November 1998, the Secretary-General received from the Government of the United States of America the following communication dated 5 November 1998, relating to the proposed corrections to the Statute circulated on 25 September 1998:

"[...] The United States wishes to note a number of concerns and objections regarding the procedure proposed for the correction of the six authentic texts and certified true copies:

"First, the United States wishes to draw attention to the fact that, in addition to the corrections which the Secretary-General now proposes, other changes had already been made to the text which was actually adopted by the Conference, without any notice or procedure. The text before the Conference was contained in A/CONF.183/C.1/L.76 and Adds. 1-13. The text which was issued as a final document, A/CONF.183/9, is not the same text. Apparently, it was this latter text which was presented for signature on July 18, even though it differed in a number of respects from the text that was adopted only hours before. At least three of these changes are arguably substantive, including the changes made to Article 12, paragraph 2(b), the change made to Article 93, paragraph 5, and the change made to Article 124. Of these three changes, the Secretary-General now proposes to "re-correct" only Article 124, so that it returns to the original text, but the other changes remain. The United States remains concerned, therefore, that the corrections process should have been based on the text that was actually adopted by the Conference.

" Second, the United States notes that the Secretary-General's communication suggests that it is "established depositary practice" that only signatory States or contracting States may object to a proposed correction. The United States does not seek to object to any of the proposed corrections, or to the additional corrections that were made earlier and without formal notice, although this should not be taken as an endorsement of the merits of any of the corrections proposed. The United States does note, however, that insofar as arguably substantive changes have been made to the original text without any notice or procedure, as noted above in relation to Articles 12 and 93, if any question of interpretation should subsequently arise it should be resolved consistent with A/CONF.183/C.1/L.76, the text that was actually adopted.

"More fundamentally, however, as a matter of general principle and for future reference, the United States objects to any correction procedure, immediately following a diplomatic conference, whereby the views of the vast majority of the Conference participants on the text which they have only just adopted would not be taken into account. The United States does not agree that the course followed by the Secretary-General in July represents "established depositary practice" for the type of circumstances presented here. To the extent that such a procedure has previously been established, it must necessarily rest on the assumption that the Conference itself had an adequate opportunity, in the first instance, to ensure the adoption of a technically correct text. Under the circumstances which have prevailed in some recent conferences, and which will likely recur, in which critical portions of the text are resolved at very late stages and there is no opportunity for the usual technical review by the Drafting Committee, the kind of corrections process which is contemplated here must be open to all.

" In accordance with Article 77, paragraph 1 (e) of the 1969 Vienna Convention on the Law of Treaties, the United States requests that this note be communicated to all States which are entitled to become parties to the Convention."

2. *With a territorial exclusion to the effect that "Until further notice, the Statute shall not apply to the Faroe Islands and Greenland".*

3. *On 28 August 2002, the Secretary-General received from the Government of Israel, the following communication: ".....in connection with the Rome Statute of the International Criminal Court adopted on 17 July 1998, [...] Israel does not intend to become a party to the treaty. Accordingly, Israel has no legal obligations arising from its signature on 31 December 2000. Israel requests that its intention not to become a party, as expressed in this letter, be reflected in the depositary's status lists relating to this treaty."*

4. *For the Kingdom in Europe, the Netherlands Antilles and Aruba.*

5. With a declaration to the effect that "consistent with the constitutional status of Tokelau and taking into account its commitment to the development of self-government through an act of self-determination under the Charter of the United Nations, this ratification shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory."

6. In a communication received on 6 May 2002, the Government of the United States of America informed the Secretary-General of the following:

"This is to inform you, in connection with the Rome Statute of the International Criminal Court adopted on July 17, 1998, that the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000. The United States requests that its intention not to become a party, as expressed in this letter, be reflected in the depositary's status lists relating to this treaty."