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

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**THE ORGANISATION AND FUNCTIONS OF THE OFFICE OF THE
MINISTRY OF FOREIGN AFFAIRS LEGAL ADVISER**

Secretariat Memorandum
prepared by the Directorate General of Legal Affairs

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ALBANIA

1. Title of the Legal Adviser and the legal Office?

Legal Adviser to the Ministry of Foreign Affairs of the Republic of Albania holds the rank of a Director within the MFA and is the head of Legal Issues and Treaties Department (LITD). The Legal Advisers are part of the diplomatic service.

2. Principal functions.

The principal function of the LITD is to give legal opinion and expertise on the issues of public international law, or national law to the Minister, other departments of the MFA and to the other Governmental Institutions, as well as the representation of the Republic of Albania at international conferences and negotiations regarding international acts.

According to the law No.8371, date 9.07.1998 "On the conclusion of treaties and international agreements" the Ministry of Foreign Affairs (the Legal Issues and Treaties Department) is the authority which coordinates the process of concluding international treaties and bilateral agreements.

In this regard, the LITD organises its work in:

- The bilateral agreements;
- The international conventions;
- Other issues of international public law.

The LITD gives its opinion on every bilateral and multilateral agreement, proposed either by the Albanian authorities or by any other Party before the approval of the agreement from the Council of Ministers and its signature.

It also gives its opinion for every international act in which the Republic of Albanian will become a Party.

The interested ministry must deposit the original of the signed agreement to the Ministry of Foreign Affairs, together with an explanatory note and the LITD presents to the Council of Ministers the relevant acts for ratification, accession, or approval of international agreements and treaties, within one month from their deposit.

Another important task of the Legal Issues and Treaties Department is to inform the other contracting parties for the fulfilment of the internal legal procedures necessary for an agreement to enter into force. It also prepares the instruments of ratification or accession to the international treaties ratified or approved by the Albanian Parliament or the Government, proceeding to their deposit on the competent authority.

It is also the only authority, which upon the approval of the Council of Ministers prepares the full powers to authorize the representatives of the Republic of Albania to sign bilateral agreements or multilateral conventions and to represent the Government to the activities on the international fora.

3. Number of lawyers including overseas staff.

The staff of the Legal Issues and Treaties Department (LITD) consists in four diplomats, called legal experts and the head of the Department.

The other issues concerning human rights, legal representation, or domestic law are dealt within other departments in the MFA such as the Legal Representative Office to the European Court of Human Rights, the International Organizations Department, and the Office for Minorities, whose staff is composed mainly by lawyers.

There are a number of lawyers posted abroad to the Albanian Missions to the UN in New York, Council of Europe, OSCE, Albanian Embassy in Rome, Athena.

4. The organization and structure of LITD

There are not separate divisions within the LITD as the number of the legal experts is limited. Two legal experts deal with bilateral agreements and the other two with international acts. They all deal with general international law issues.

LITD is the authority which gives the final approval for international acts in close cooperation with the other political departments.

5. LITD place within the Ministry of Foreign Affairs

As mentioned before the Legal Issues and Treaties Department is an important office of the Ministry of Foreign Affairs whose functions are not only to give legal advice to the Minister or other leading and operative structures of the Ministry, but also to the other Governmental Institutions as well.

6. The main contact of the LITD within the Government

The legal experts have close contacts with the Office of the Prime Minister for the procedures of the approval of international agreements. Its work is related with all other Ministries, especially with their International Relations and Legal Departments on international law issues and on the conclusion of bilateral agreements and acts, which object, is under their competences.

7. Relations of the LITD with lawyers in private practice, academics and legal institutions

The work of legal experts of the LITD is often related with legal institutions, the private lawyers or academic lawyers in order to draw their opinion on important matters of public international law.

ARMENIA

1. What are the title, rank and position of the Legal Adviser?

Currently the post of the legal adviser is not envisaged in the structure of the Ministry of Foreign Affairs as such. In this case all legal matters are dealt with the ministry's legal department headed by the director. The director of the legal department is granted, as a rule, the diplomatic rank of the first secretary of first class. The director and other employees are considered as diplomatic officers and the law on diplomatic service is applicable to them.

2. What are the principal functions of the OLA?

The Legal Department of the Ministry of Foreign Affairs of Armenia:

a) Provides and co-ordinates the work with the respective structural units of the Ministry's staff, diplomatic and consular bodies under its statute and the Law on International Treaties of the Republic of Armenia,

b) takes initiatives for the formulation and development of the legal co-operation basis bilaterally and multilaterally with other states and international organizations, makes respective proposal in this regard jointly with other units of the Ministry,

c) carries out international-legal expertise of the international treaties of the Republic of Armenia

d) participates in the negotiations of the international treaties

e) prepares the signature of the international treaties jointly with other structural units of the Ministry concerned,

f) arranges the internal procedures for the entry into force of the international treaty, notifies the other contracting party or depositary of such procedures, may serve as a depositary of the international treaty,

g) controls the implementation of the international treaty,

h) initiates the approximation and compatibility proposals to bring the Armenian legislation compatible to the provisions and undertakings arising from the treaties in force in respect of Armenia,

i) deposits the original treaties of Armenia and their true (authentic) copies, authentic translations and related documents,

j) co-ordinates the registration of treaties with the UN Secretariat.

j1) provides database of international treaties

j2) co-ordinates the activities of the other governmental and local agencies and bodies

j3) organizes the publication of the treaties in force

j4) carries out international-legal expertise of the draft legislative and other acts

j5) advises on different legal matters within the ministry, to Armenian diplomatic and consular establishments, other agencies, and diplomatic corpus in Armenia when appropriate,

j6) is involved in international legal co-operation with various international non-governmental and governmental organizations, participates in the preparatory and negotiation process where legal or related questions are touched upon, liaises the Ministry and other international legal institutions,

j7) analyses the developments and practices in international law and European law

j8) presents the Ministry before the courts,

j9) prepares national reports or/and co-ordinates current work of such reports,

j10) carries out other activities as assigned under the legislation.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

Employed persons are professionals with legal background who are to be recruited through open competition. They are considered as diplomatic officers and the law on diplomatic service is applicable to them. However, there exists the post of civil servant who is recruited through civil service commission and is engaged in the same work, as diplomats, of the department.

4. Briefly describe the organisation and structure of the OLA.

As was mentioned above in response to question 1 all legal matters are dealt with the ministry's legal department. The department consists of two desks:

1. Desk of the international treaties and deposit.
2. Desk of the implementation of international treaties and internal legislation.

The functions of the mentioned desks are distributed according to the bylaws of the department in the light of the functions above mentioned in response to the question 2.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The legal department is a structural unit of the Ministry with mainly diplomatic staff. No specific status is granted to the department in comparison with other units.

6. What are the main contacts of the OLA within Government?

Main contacts are made at first with ministries concerned, where permanent engagements have Ministry of Justice and Ministry of Finance and Economy. Besides, the Ministry initiating a conclusion of a treaty is a key player. However, the Ministry of Foreign Affairs (in this case legal department) remains the main co-ordinator among other departments and ministries. Nearly all communications (Government, Presidency, Constitutional Court, Parliament etc.) relating to the treaties and legal acts arising from the treaties are made through the Ministry's legal department.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

Main contacts with lawyers in private sector are connected with different inquiries, especially relating to the entry into force of the treaty and additional explanatory inquiries are made in respect to treaties. The department is involved in international legal co-operation with various international non-governmental and governmental organizations.

While analysing the developments and practices in international law and European law, preparing national reports or/and co-ordinating current work of such reports department actively engages in with various academic institutions (mainly universities) and specialized NGOs.

8. Please provide a brief bibliography on the OLA, if available.

Please refer to question 2 above.

Appendix

LAW OF THE REPUBLIC OF ARMENIA ON INTERNATIONAL TREATIES OF THE REPUBLIC OF ARMENIA

CHAPTER 1
GENERAL PROVISIONS*Article 1. Subject Regulated by the Law*

1. The present law regulates the relations of drafting and negotiating an international treaty of the Republic of Armenia, of its pre-signing, signing, ratification or approval, of joining thereto, entering into force, registering, temporary application and execution thereof, as well as the relations of temporary suspension and termination of an international treaty for the Republic of Armenia and other relations connected with it.
2. The force of this law shall not cover the international civil and legal relations regulated by the international private law.

Article 2. International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia shall be a written agreement between the Republic of Armenia and foreign states, international organizations or other subjects of international law concluded in compliance with the constitution of the Republic of Armenia, with this law and the norms of the international law. An international treaty shall be regulated by the international law and shall define, amend or terminate the rights and obligations of the parties and shall enter into legal force by the established procedure and shall be deemed binding for the Republic of Armenia.
2. In accordance with this law any written agreement drawn up in the form of a contract, agreement, convention, memorandum, exchange of notes or documents with any other titles, accepted in international practice, shall be deemed to be an international treaty of the Republic of Armenia.
An international treaty may be drawn up in the form of one general document or more than one interrelated documents inseparable from each other.
3. In accordance with this law an international organization shall be an interstate or intergovernmental organization established with participation of two and more states or their governments.

Article 3. Parties to an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia may be bilateral or multilateral.
2. In a bilateral international treaty another subject of international law shall act as the other party along with the Republic of Armenia.
In a bilateral international treaty (both together with the Republic of Armenia and the other party) more than one subject of international law may represent a single united (collective) party thereof.
3. In a multilateral international treaty more than one subject of international law may represent, along with the Republic of Armenia, independent parties to the same treaty.

Article 4. Legislation on an International Treaty of the Republic of Armenia

1. The relations connected with an international treaty of the Republic of Armenia shall be regulated by the Constitution of the Republic of Armenia, this law, international treaties of the Republic of Armenia, as well as by other laws and legislative acts adopted on the basis thereof.
2. The relations connected with an international treaty of the Republic of Armenia and not regulated by this law shall be regulated by well-known principles and norms of international law.

Article 5. Relationship between an International Treaty of the Republic of Armenia and the Laws of the Republic of Armenia

1. A ratified international treaty of the Republic of Armenia shall be an integral part of the legal system of the Republic of Armenia. Should an international treaty ratified by the National Assembly of the Republic of Armenia define other norms not stipulated by the laws of the Republic of Armenia, the norms of the international treaty shall be applied.

The intergovernmental and interdepartmental treaties of the Republic of Armenia not ratified by the National Assembly of the Republic of Armenia may not contradict the laws of the Republic of Armenia.

2. In the Republic of Armenia the norms of an international treaty shall be applied directly, unless they require the adoption of an inner state act of the Republic of Armenia or the adoption of the latter arises from the necessity to ensure the proper execution of this treaty.

CHAPTER II SUBJECTS OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA AND RELATIONS REGULATED BY IT

Article 6. Subjects of an International Treaty of the Republic of Armenia

1. The Republic of Armenia shall be the subject of an international treaty of the Republic of Armenia.

Subjects of an international treaty of the Republic of Armenia may be foreign states, international organizations, as well as other subjects of international law.

An international treaty of the Republic of Armenia may be also concluded with a subject of a federation or a subject of a federation of foreign states having a similar structure accepted by international law (hereinafter called federal), and with a State entity having an autonomous or other status, if it is entitled in accordance with the laws of the federal State to conclude an international treaty.

2. An international treaty of the Republic of Armenia may be concluded:

- a) on behalf of the Republic of Armenia (an interstate treaty),
- b) on behalf of the Government of the Republic of Armenia (an intergovernmental treaty),
- c) on behalf of the republican executive bodies, the General Procurator's Office, the National Academy of Sciences, as well as the Central Bank of the Republic of Armenia (an interdepartmental treaty).

3. Irrespective of on whose behalf there has been concluded the international treaty on the part of the Republic of Armenia (hereinafter the Armenian party), the Republic of Armenia shall be the party and the subject that international treaty. The Republic of Armenia shall be responsible for the execution of obligations undertaken by the Armenian party.

Article 7. Relations Regulated by an Interstate Treaty of the Republic of Armenia

1. An interstate international treaty of the Republic of Armenia shall regulate the following:

- a) relations connected with establishment of an alliance for friendship and cooperation, defense, refusal to use force or mutual threat of use of force and truce and a military or political alliance or accession thereto, with settlement of border and territorial issues, establishment of international organizations or accession thereto, establishment of diplomatic and consular relations, the receipt or granting of credits, loans and guarantees, financial cooperation and other relations connected with the vital interests of the Republic of Armenia.
- b) Relations connected with human rights, liberties and obligations, the citizenship, the legal status of foreign citizens, refugees and forcefully displaced persons, as well as with legal assistance for civil, family and criminal cases and establishment of legal relations.
- c) Relations connected with the alienation of cultural values considered as the property of the Republic of Armenia and of other objects.

d) Relations within in accordance with this law the framework of regulation by intergovernmental and interdepartmental treaties, if the other party to the treaty wishes to conclude it on behalf of the Republic of Armenia.

Article ¹8. Relations Regulated by an Intergovernmental Treaty of the Republic of Armenia

1. An intergovernmental treaty of the Republic of Armenia shall regulate relations within the jurisdiction of the Government of the Republic of Armenia in accordance with the Constitution of the Republic of Armenia, this and other laws.
2. An intergovernmental treaty of the Republic of Armenia shall regulate:
 - a) general economic relations including relations of trade, industry, agriculture, science and technology, education, foreign investments and taxation.
 - b) relations connected with particular fields of economy, if they are not within the direct jurisdiction of a republican executive body carrying out the public administration of the relevant field.
 - c) relations connected with establishment of intergovernmental international organizations and accession thereto, with the receipt or granting of credits, loans and guarantees, with financial cooperation and other relations connected therewith.
3. An intergovernmental treaty may be concluded both by the initiative of the Government of the Republic of Armenia and for execution of an interstate or other intergovernmental treaty of the Republic of Armenia.
4. An intergovernmental treaty of the Republic of Armenia may not regulate relations regulated by an interstate treaty of the Republic of Armenia.

Article 9. Relations Regulated by an Interdepartmental Treaty of the Republic of Armenia

1. An interdepartmental treaty shall regulate relations connected with interdepartmental cooperation, mutual aid and other relations of mutual interest that in accordance with the legislation of the Republic of Armenia are within the jurisdiction of a relevant republican executive body, the Office of the General Procurator, the National Academy of Sciences and the Central Bank (hereinafter departments) of the Republic of Armenia.
2. An interdepartmental treaty of the Republic of Armenia may be concluded both by the initiative of the departments and for the execution of the interstate, intergovernmental or other interdepartmental treaty of the Republic of Armenia.
3. An interdepartmental treaty of the Republic of Armenia may not regulate the relations regulated by interstate and intergovernmental treaties of the Republic of Armenia.

CHAPTER III CONCLUSION OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA

Article 10. Initiative to Conclude an International Treaty of the Republic of Armenia

1. Conclusion of an international treaty of the Republic of Armenia may be initiated by the President of the Republic of Armenia, the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia and the departments within their branch of activity and jurisdiction, as well as foreign States and other subjects of international law.

The Ministry of Foreign Affairs of the Republic of Armenia may as well initiate the conclusion of an international treaty on matters within the jurisdiction of other departments by means of presentation of a relevant proposal by the latter.

The conclusion of an international treaty of the Republic of Armenia may be initiated by more than one interested department. These departments may also jointly draft by their own initiative or by

¹ Please, note that Article 8 has some changes, but however, not included here. ONLY in Armenian is available.

the instructions of the bodies and officials mentioned in item 2 of this Article a draft international treaty. One of them shall be in this case the principal initiator and shall be responsible for the draft's approval and further progress.

2. An instruction to conclude an international treaty of the Republic of Armenia may be given by:

- a) the President of the Republic of Armenia in respect of interstate, intergovernmental and interdepartmental Treaties,
- b) the Government and the Prime Minister of the Republic of Armenia in respect of intergovernmental and interdepartmental treaties, except interdepartmental treaties concluded on behalf of the Central Bank and the Office of the General Procurator.

3. The relations connected with the execution of the instructions stipulated in item 2 of the present article shall be regulated with the norms of point "b" of item 2 of Article 12, the norms of Article 13, as well as of item 2 of Article 14 related to the further progress of the proposal to conclude an international treaty, if not otherwise stipulated by these instructions.

Article 11. Proposal to Conclude an Interstate and an Intergovernmental Treaty of the Republic of Armenia

1. If the initiative to conclude an interstate or an intergovernmental treaty has been taken by a Department of the Republic of Armenia, It shall draft that treaty and submit it to the Ministry of Foreign Affairs of the Republic of Armenia substantiating the necessity or expediency of its conclusion.

2. If the initiative to conclude an interstate or an intergovernmental treaty has been taken by a foreign state or other subject of international law, and an appropriate proposal has been submitted to the Ministry of Foreign Affairs, then the latter shall address it within five days following the receipt of the proposal to the relevant Department of the Republic of Armenia.

Following the receipt of the proposal by the Ministry of Foreign Affairs of the Republic of Armenia or directly by a department, the relevant department shall submit within 15 days upon its receipt a written opinion on the proposal to the Ministry of Foreign Affairs of the Republic of Armenia.

3. In accordance with procedures set forth in items 1 and 2 of this Article, the Ministry of Foreign Affairs of the Republic of Armenia within 10 days following the receipt of the proposals or opinions of relevant departments of the Republic of Armenia shall consider them and shall respectively submit all documents concerning the conclusion of the interstate or the intergovernmental treaty to the President of the Republic of Armenia or the Government of the Republic of Armenia together with its opinion.

Article 12. Procedures Connected with a Proposal to Conclude an Interstate or an Intergovernmental Treaty of the Republic of Armenia

1. If the proposal to conclude an interstate or an intergovernmental treaty has received the consent of respectively the President or the Government of the Republic of Armenia expressed in adoption of a relevant decision, then the department, that has taken the initiative to conclude that treaty, or the department, within jurisdiction of which are the issues regulated by that treaty (hereinafter the competent department), shall be notified thereof through the Ministry of Foreign Affairs of the Republic of Armenia).

The President of the Republic of Armenia or the Government of the Republic of Armenia may give together with their consent certain instructions in regard of the issues related to the conclusion of that treaty.

2. The competent department of the Republic of Armenia, unless the President of the Republic of Armenia or the Government of the Republic of Armenia define some other term, within one month following the receipt of the consent of respectively the President of the Republic of Armenia or the Government of the Republic of Armenia in regard of the proposal to conclude an interstate or an intergovernmental treaty shall:

- a) review all documents relating to the proposal to conclude an interstate or intergovernmental treaty and shall, if necessary, specify or redrafts the treaty or prepares the draft treaty, if it was not attached to the proposal received from a foreign state or other subject of international law.

- b) If the proposal has been received from a foreign state or other subject of international law, and it has included a relevant draft treaty, the competent department shall prepare its preliminary opinion on that draft;
- c) following the completion of actions specified in sub-item “a” of this item, shall submit the relevant draft interstate or intergovernmental treaty for the approval of the Ministry of Justice of the Republic of Armenia, the Ministry of Finance and Economy of the Republic of Armenia, as well as of other departments interested in this international treaty.

Article 13. Procedures Connected with Consideration of a Draft Interstate or Intergovernmental Treaty of the Republic of Armenia

1. The interested Departments shall be committed to submit their opinion or comments and proposals for concordance to the competent department of the Republic of Armenia within 15 days following the receipt of the draft of an interstate or intergovernmental treaty.

If there are provisions in the draft international treaties submitted for concordance that contradict the Constitution of the Republic of Armenia, the Ministry of Justice of the Republic of Armenia shall propose the draft maker to remove these provisions and shall draw the attention of the draft maker to the purposefulness of maintaining the provisions, if available in the draft, that contradict the laws of the Republic of Armenia.;

The competent department within 10 days following the receipt of the opinions or comments and proposals of the interested departments shall consider them and shall, if necessary, revise or redraft the treaty and submit it to the Ministry of Foreign Affairs of the Republic of Armenia.

If the competent department of the Republic of Armenia does not fully or partially agree with the opinions or comments and proposals of the interested departments, it shall also notify the Ministry of Justice thereof and shall specify the reasons for disagreement.

2. The draft maker shall decide if it is expedient to preserve in the draft interstate or intergovernmental treaty the provisions contradicting the Constitution and laws of the Republic of Armenia.

3. The Ministry of Foreign Affairs within 10 days following the receipt of the draft interstate or intergovernmental treaty from the competent department shall submit it to the other party in the treaty.

If it is planned to conclude a bilateral interstate or intergovernmental treaty, its draft shall be sent to all parties or to the international organization or its body responsible or authorized for concordance of the text of the draft.

14. Procedures Connected with a Proposal to Conclude an Interdepartmental Treaty of the Republic of Armenia

1. A proposal to conclude an interdepartmental treaty of the Republic of Armenia shall be submitted, irrespective of whether it has been initiated by the Republic of Armenia, a foreign state or other subject of international law, by the Ministry of Foreign Affairs of the Republic of Armenia for approval to the Government of the Republic of Armenia that will adopt a relative decision thereon.

If the proposal to conclude an interdepartmental treaty has been made by the competent department of the Republic of Armenia, it must attach the draft of the respective treaty to the proposal and substantiate the necessity or expediency of its conclusion.

If the proposal has been made by a foreign state or other subject of international law that has submitted it to the Ministry of Foreign Affairs of the Republic of Armenia through diplomatic channels, the latter shall address the proposal to the competent department.

If the proposal to conclude an interdepartmental treaty has been agreed upon by the Government of the Republic of Armenia, the competent department of the Republic of Armenia shall be notified thereof through the Ministry of Foreign Affairs of the Republic of Armenia.

2. After the consent has been received from the Government of the Republic of Armenia, the competent department shall submit that draft interdepartmental treaty for concordance to the interested departments specified in sub-item “b” of item 2 of Article 12 of this law.

The relations connected with the proposal to conclude an interdepartmental treaty, submission of an opinion or comments and proposals on the draft of this treaty, their consideration and presentation to the other party of the treaty shall be regulated by the procedure defined in sub-item "a" of item 2 of Article 12 of this law.

Article 15. Organization of Work Related to Negotiating, Pre-Signing, Signing, Submission for Ratification or Approval of an International Treaty of the Republic of Armenia

Following the submission of the draft international treaty and of the opinion or comments and proposals of the Armenian party on the draft of such treaty to the other party of the treaty, the Ministry of Foreign Affairs of the Republic of Armenia shall, with participation of interested departments, organize and administer negotiations for the conclusion of that treaty, the activities aimed at reaching an agreement upon the text of the treaty with the other party, its pre-signing, signing and submission in accordance with the established procedure for ratification or approval.

Article 16. Persons Authorized to Negotiate the Conclusion, Pre-signing and Signing of an International Treaty of the Republic of Armenia

1. The President of the Republic of Armenia, the Prime Minister of the Republic of Armenia and the Minister of Foreign Affairs of the Republic of Armenia shall be entitled without any special authority to negotiate an international treaty of the Republic of Armenia and sign it.

The head of a department of the Republic of Armenia shall be entitled without any special authority to negotiate an interdepartmental treaty of the Republic of Armenia and sign it.

2. Persons who have received special authority for that shall be also entitled to negotiate and sign an international treaty of the Republic of Armenia.

The special authority to negotiate the conclusion and sign an international treaty shall be given by:

- a) the President of Republic of Armenia in respect of an interstate treaty;
- b) the Prime Minister of the Republic of Armenia in respect of an intergovernmental treaty;
- c) a head of a Department of the Republic of Armenia in respect of an interdepartmental Treaty to be concluded on behalf of that department.

Authority shall be given also for pre-signing of an international treaty in accordance with the procedure defined in this item.

Granting of special authority in cases stipulated in this item shall be carried out by the power of attorney given by a relevant competent official in accordance with the defined procedure.

17. Pre-signing of an International Treaty of the Republic of Armenia

1. Pre-signing of an international treaty is a stage of its conclusion at which an authorized person shall give a preliminary consent of the Armenian party to the written text through making notes on each page of that treaty in accordance with the legislation of the Republic of Armenia after which the treaty is ready to be signed in the established order by the Republic of Armenia.

2. An international treaty may be pre-signed by the Armenian party only after completing all activities envisaged by this Law for drafting and pre-signing of the draft treaty, unless otherwise provided by the instruction (item 2 of Article 10 of this law) to conclude such a treaty.

Before pre-signing an international treaty the Ministry of Foreign Affairs of the Republic of Armenia shall agree with the other party upon the location and date of its pre-signing and shall notify of the official representative or the composition of the delegation of the Armenian party.

Pre-signing of an international treaty shall be equal to sending of the final text of the treaty to the other party and the submission of an official notice of the consent with the text to the Armenian party, if it has been impossible for some reason to execute the pre-signing.

3. The text of the pre-signed international treaty may be amended only if the parties have made, before signing the treaty, an additional arrangement to introduce into it certain more precise definitions or corrections.

Article 18. Signing of an International Treaty of the Republic of Armenia

1. Signing of an international treaty is a stage of its conclusion which shall terminate the negotiating of the treaty and during which the pre-signed treaty shall be signed on behalf of the Republic of Armenia, as confirmation of the final consent with the text, by a person vested with such powers or special authority by this law, after which the treaty shall be deemed concluded for the Republic of Armenia or is subject to ratification or approval in accordance with the procedure defined in this law.

2. The text of a signed international treaty shall not be subject to modifications.

If provisions of an international treaty subject to ratification by the National Assembly of the Republic of Armenia have been recognized as contradicting the Constitution of the Republic of Armenia by the Constitutional Court of the Republic of Armenia, the text of that treaty may be modified by the procedure defined in this law, signed on the new basis and submitted for ratification after the removal of the provisions contradicting the Constitution of the Republic of Armenia.

The requirements of this law concerning the concordance and the pre-signing of the international draft treaty are not binding in this case, unless there is another arrangement with the other party.

3. If an interstate treaty stipulates that it enters into force (action) from the moment of its signing or it may be temporarily applied before entering into force, the person from the party of the Republic of Armenia vested with powers or special authority to sign that treaty shall be obliged to come during the negotiations to an agreement with the other party that the treaty shall enter into force after its ratification. If the agreement is not reached, the person authorized from the party of the Republic of Armenia while signing a treaty that includes such provisions shall make provisos, stating that the treaty shall enter into force or shall be applied in the Republic of Armenia in accordance with the procedure defined by this law.

The norms of this item shall be also applied to the intergovernmental and interstate treaties subject to ratification or approval in accordance with the norms of sub-items "a", "b" and "c" of item 2 of Article 23, as well as of Article 24 of this law by the National Assembly of the Republic of Armenia, the President of the Republic of Armenia or the Government of the Republic of Armenia respectively.

4. Reaching an agreement on the establishment of relations in a relevant area between parties by the exchange of notes through diplomatic channels shall be recognized equal in strength to the signing of an international treaty of the Republic of Armenia.

5. The Republic of Armenia may also sign in accordance with the norms of the international law and the procedure defined by this law an open for signing international treaty, in the drafting, as well as the pre-signing and the presentation for signing activities of which it did not participate.

Article 19. Special Cases of Undertaking Obligations by an International Treaty of the Republic of Armenia

The Government of the Republic of Armenia has the right, within the framework of the volumes defined for the present year by the Law of the Republic of Armenia on the State Budget, to conclude, for the purpose of preparation of an international treaty stipulating credit, guarantee or other financial obligations for the Republic of Armenia, a preliminary treaty that shall enter into force and shall be applied by the procedure of that treaty without keeping to the procedures of this law, as well as to use the financial and other means stipulated for the preparation of the international treaty and the execution of the obligations connected with the treaty.

Article 20. Language of an International Treaty of the Republic of Armenia

1. Drafts of bilateral and multilateral international treaties of the Republic of Armenia shall be drafted and concurred with the interested departments of the Republic of Armenia in the Armenian language..

If the draft of a bilateral or multilateral international treaty has been submitted by a foreign state or other subject of international law, it shall be subject to translation into Armenian.

The text of an international treaty shall be agreed upon with the other party (parties) in a foreign language, unless otherwise agreed upon during negotiations.

2. The preparation of the texts of international treaties in Armenian and foreign languages or their translation into Armenian (if the draft treaty has been received from the other party) shall be assigned to the competent department.
3. One copy of the bilateral international treaty shall be signed in Armenian.
4. A multilateral international treaty shall be signed in a foreign language, as well as in Armenian, if so stipulated by this international treaty.
5. The identity of the text of an international treaty being signed in Armenian with the text simultaneously signed in a foreign language shall be confirmed by the Ministry of Foreign Affairs of the Republic of Armenia.
6. The competent departments shall be responsible in accordance with the procedure defined by this article to translate into Armenian an international treaty signed in a foreign language. The identity of the Armenian translation with the text of an international treaty signed in a foreign language shall be confirmed by the Ministry of Foreign Affairs of the Republic of Armenia. The identified Armenian text (the official translation) is equivalent to the text of the international treaty signed in a foreign language.

Article 21. Ratification, Approval or Acceptance of an International Treaty of the Republic of Armenia

Ratification or approval of an international treaty of the Republic of Armenia is a stage of its conclusion at which an appropriate resolution is adopted in regard of the international treaty signed by the Armenian party by a competent body of the Republic of Armenia by the procedure defined by this law, and on the basis of that the treaty shall be recognized binding for the Republic of Armenia from the moment of its entering into force,

Should an international treaty signed by the Armenian party stipulate its adoption, the resolution adopted by the competent body by the procedure defined by this law on the ratification or approval of that treaty shall replace the resolution on adoption of the treaty.

Article 22. Accession to an International Treaty

1. The Republic of Armenia may join, in accordance with the norms of the international law, an international treaty that entered into force in which it does not represent a party to the Treaty.

2. The President of the Republic of Armenia, the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia, the departments, as for the issues concerning their sphere of activity or competence, may come up with an initiative to join an international treaty. The Ministry of Foreign Affairs of the Republic of Armenia may also come up with an initiative to join an international treaty on issues within the competence of another department by means of presentation to the latter of an appropriate proposal.

More than one interested department may come up with an initiative to join an international treaty. On of them, in this case, shall act as the principal initiator responsible for substantiating the expediency of accession to this treaty and its further developments.

3. The instructions to join an international treaty may be given by:

- a) the President of the Republic of Armenia in regard of joining interstate, intergovernmental and interdepartmental treaties;
- b) the Government of the Republic of Armenia, the Prime Minister of the Republic of Armenia in regard of joining intergovernmental and interdepartmental treaties except the treaties relating to the Central Bank and the Office of the General Procurator.

4. In accordance with items 2 and 3 of this article to implement the proposal or the instruction for joining the international treaty shall carry out the translation into Armenian of the treaty to be joined, the identity of which shall be confirmed by the Ministry of Foreign Affairs. The competent department shall submit to the Ministry of Foreign Affairs of the Republic of Armenia the international treaty together with the substantiation of its expediency.

5. The Ministry of Foreign Affairs of the Republic of Armenia shall study within 10 days from the time of their receipt the proposals of the relevant departments and shall submit to the President of the Republic of Armenia or the Government of the Republic of Armenia for approval all

documents or their copies related to joining the international treaty together with the respective opinion of the Ministry.

The department that has made the initiative to join this treaty shall be informed through the Ministry of Foreign Affairs if the proposal for joining the treaty is approved respectively by the President of the Republic of Armenia or the Government of the Republic of Armenia by a relevant resolution.

The President of the Republic of Armenia or the Government of the Republic of Armenia may in addition give certain instructions in regard of the issues related to the joining of this treaty.

6. The Republic of Armenia may join an international treaty through the adoption of a resolution by the competent body defined in this law on the Republic of Armenia's joining this international treaty, and this shall be a reason in accordance with the procedure defined by this law to recognize it as binding for the Republic of Armenia and to recognize the Republic of Armenia as a party to that treaty.

Article 23. The Procedure of Ratification, Approval and Accession to an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia shall be ratified by the National Assembly of the Republic of Armenia and by the President of the Republic of Armenia.

2. The National Assembly of the Republic of Armenia shall ratify the interstate treaties. The National Assembly of the Republic of Armenia shall also ratify the intergovernmental and interdepartmental treaties that:

a) shall be connected with the receipt or provision of credits, loans or guarantees or the creation of other direct financial obligations for the Republic of Armenia.

The tax and other privileges of compulsory payments and the commitments to make lump sum or regular monetary contributions for the maintenance of international organizations and formation of interstate (intergovernmental) funds shall be, in particular, regarded in accordance with this law as other direct financial obligations.

The other direct financial obligations shall not include, in particular, the commitments relating to business trips, reception of foreign citizens and leasing of apartments or other property;

b) shall contain provisions contradicting the laws of the Republic of Armenia;

c) shall contain norms that would require making amendments to the laws or adoption of the new laws of the republic of Armenia.

3. The President of the Republic of Armenia shall ratify all intergovernmental treaties except for the cases stipulated in item 2 of this article.

4. If the interdepartmental treaty is not in accordance with sub-items "a", "b" and "c" of item 2 of this article subject to ratification by the National Assembly of the Republic of Armenia, but it contains provisions contradicting the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia, or the parties have envisaged its approval, the treaty shall then be approved by:

a) the President of the Republic of Armenia, if the interdepartmental treaty contradicts the decrees of the President of the Republic of Armenia or it has been concluded on behalf of the Central Bank or the Office of the General Procurator;

b) the Government of the Republic of Armenia, if the treaty has been concluded on behalf of other departments of the Republic of Armenia.

5. the National Assembly of the Republic of Armenia, the President of the Republic of Armenia, the Government of the Republic of Armenia, the relevant department shall make a decision on the accession of the Republic of Armenia to an international treaty entered into force in conformity with the norms of the international law taking into account the requirements of items 2 and 3 of this article and article 24 of this law.

If the interdepartmental treaty to be joined contains provisions contradicting the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia, it shall be submitted in accordance with item 4 of this article for approval to the President or the Government of the Republic of Armenia respectively.

Article 24. Special Procedure for Ratification or Approval of an International Treaty of the Republic of Armenia.

The intergovernmental and interdepartmental treaties, that has been drafted and signed within the framework of the volumes of external loan approved for a given year by the Law of the Republic of Armenia on the State Budget, and stipulate for the Republic of Armenia credit, guarantee or other financial obligations, as well as the interstate, intergovernmental and interdepartmental treaties stipulating the provision to the Republic of Armenia of humanitarian aid, donation or financial grants or relating to technical and economic and financial cooperation that do not impose reciprocal equivalent obligations on the Armenian party even if they stipulate privileges as for tax, customs, state duty and other compulsory payments shall be:

- a) ratified or approved by the President of the Republic of Armenia if the treaty is respectively an interstate or intergovernmental treaty or it is concluded on behalf of the Central Bank or the Office of the General Procurator
- b) approved by the Government of the Republic of Armenia if the treaty is an interdepartmental one.

Article 25. Submission of an International Treaty of the Republic of Armenia for Ratification, Approval or Accession

1. In order to submit an international treaty for ratification, approval or accession the Ministry of Foreign Affairs of the Republic of Armenia shall ensure by the procedure defined by this law the receipt of the following documents:

- a) the substantiating paper of the Department of the Republic of Armenia responsible for conclusion of the treaty concerning the expediency of its ratification, approval or accession:
- b) the opinion of the Ministry of Justice of the Republic of Armenia whether the provisions of the treaty contradict or do not contradict the legislation of the Republic of Armenia,
- c) the opinion of the Ministry of Finance and Economy of the Republic of Armenia whether the provisions of the treaty provide or do not provide direct financial obligations for the Republic of Armenia,
- d) the memorandum of the Ministry of Foreign Affairs of the Republic of Armenia whether the party to the treaty, be it a foreign state or any other subject of the international law, ratified or approved the treaty or whether it entered into force for them.

The departments of the Republic of Armenia shall submit the documents specified in sub-items "a", "b" and "c" of this item to the Ministry of Foreign Affairs within 10 days following the receipt of a notice from the latter.

2. The Ministry of Foreign Affairs of the Republic of Armenia within 30 days following the receipt of the documents specified in item 1 of this article shall submit them together with the international treaty to the President of the Republic of Armenia or the Government of the Republic of Armenia respectively.

Article 26. Signing of an International Treaty by the President of the Republic of Armenia

If an intergovernmental treaty of the Republic of Armenia signed by the President of the Republic of Armenia is not subject in accordance with this law to ratification by the National Assembly of the Republic of Armenia, it shall be considered ratified from the moment of its signing.

Article 27. Submission of an International Treaty for Ratification by the National Assembly of the Republic of Armenia

An international treaty subject to ratification by the National Assembly of the Republic of Armenia shall be preliminarily submitted by the President of the Republic of Armenia to the Constitutional Court of the Republic of Armenia in order to receive the Court's decision on compliance of obligations confirmed by the treaty with the Constitution of the Republic of Armenia.

If a positive decision is adopted by the Constitutional Court of the Republic of Armenia, the President of the Republic of Armenia shall submit the international treaty for ratification by the National Assembly of the Republic of Armenia.

Article 28. An International Treaty Contradicting the Constitution of the Republic of Armenia

1. If the Constitutional Court of the Republic of Armenia has adopted a decision that obligations confirmed by the treaty contradict the Constitution of the Republic of Armenia, the President of the Republic of Armenia proceeding from the significance of the treaty for the Republic of Armenia may:

- a) assign the Government of the Republic of Armenia to negotiate with the other party to the treaty in order to change or remove the norms that stipulate obligations contradicting the Constitution of the Republic of Armenia and submit the treaty in accordance with the defined procedure for ratification,
- b) decide that it is inexpedient to conclude the treaty and shall instruct to necessarily notify of this the other party to the treaty through diplomatic channels.

2. If the Republic of Armenia is interested in ratifying an international treaty that contains provisions contradicting the Constitution of the Republic of Armenia without the removal of these provisions from the treaty, the mentioned treaty may be ratified by the National Assembly only if appropriate amendments are made to the Constitution of the Republic of Armenia in accordance with the defined procedure.

Article 29. Legal Acts to Ratify, Approve, Access an International Treaty or Renounce it

1. The National Assembly of the Republic of Armenia shall adopt a resolution, and the President shall pass a decree on ratification, accession or renunciation of an international treaty. The President of the Republic of Armenia shall pass a decree, and the Government of the Republic of Armenia shall adopt a resolution on approval or renunciation of an interdepartmental treaty.

2. If the National Assembly of the Republic of Armenia, the President of the Republic of Armenia or the Government of the Republic of Armenia have adopted a resolution (a decree) on non-ratification, non-approval and non-accession to an international treaty, then the treaty may be submitted, if necessary, for another ratification, approval by maintaining the procedure stipulated in this law.

Should the treaty be not ratified, approved or accessed for the second time, it may no longer be submitted for ratification, approval or accession, unless otherwise decided by the competent body.

3. If an intergovernmental or interdepartmental treaty in accordance with the requirements of this law has entered into force or is subject to temporary application from the moment of its signing, and if in accordance with this law it is subject to ratification or approval by the President of the Republic of Armenia or the Government of the Republic of Armenia, and they have refused to ratify or approve it and have not made another decision, the competent department shall take measures in accordance with the norms of the international law through the Ministry of Foreign Affairs of the Republic of Armenia to stop the action of this treaty for the Republic of Armenia.

Article 30. The Entering into Force of an International Treaty of the Republic of Armenia

1. The entering into force of an international treaty of the Republic of Armenia is the final stage of its conclusion, when following the ratification, approval or accession to the treaty in accordance with norms of international law and requirements of this law the final organizational and legal arrangements necessary for the emergence of rights and obligations specified in the treaty shall be implemented, on or after completion of which the treaty shall be deemed concluded and the rights and obligations emerged from the moment stipulated by the treaty.

The recognition (declaration) by of the Republic of Armenia in accordance with the norms of the international law that it is the legal successor of an international treaty shall be equal in strength to the conclusion of the international treaty.

2. An international treaty of the Republic of Armenia ratified, approved or accessed to in accordance with in the procedure defined by this law shall enter into force:

- a) upon its ratification, approval or accession to in accordance with the procedure stipulated by the treaty
- b) upon the official promulgation of the international treaty, if the treaty refers to issues of human rights, liberties and obligations,
- c) from the moment of its signing or from another moment stipulated by the treaty, if it is an intergovernmental or interdepartmental treaty and is not subject in accordance with the norms of articles 23 and 24 of this law to ratification or approval by the National Assembly, the President or the Government of the Republic of Armenia respectively.

Article 31. Special Requirements for Entering into Force and Temporary Application before Entering into Force of an International Treaty of the Republic of Armenia

1. If an international treaty signed by the Republic of Armenia stipulates that it shall enter into force from the moment of signing or it may be temporarily applied by the defined procedure prior to its entering into force and the requirement to make a proviso referred to in item 3 of Article 18 of this law has not been ensured at the moment of signing of the treaty, then the following rules shall be applied to such an international treaty, if:

- a) the treaty has been signed on behalf of the Republic of Armenia or it is classified as an intergovernmental or interdepartmental treaty referred to in sub-item "a" of item 2 of article 23 of this law, then provisions related to its entering into force from the moment of signing or to its temporary application shall not be applied in the Republic of Armenia, until they become effective in accordance with the procedure defined by this law;
- b) the treaty contains provisions contradicting the laws of the Republic of Armenia or requiring amendments thereto or adoption of new laws, then provisions related to its entering into force from the moment of signing or to its temporary application shall be effective for the Republic of Armenia till the treaty enters into force in accordance with the procedure defined in this law only in regard of the obligations or norms stipulated in the treaty that do not contradict the laws of the Republic of Armenia.

2. Should the procedures stipulated in this law for entering into force of the international treaty referred to in sub-item "b" of item 1 of this article shall not be completed within one year following the signing of that treaty, the action of the treaty specified in the mentioned sub-item shall be subject to termination for the Armenian party.

Article 32. Making Provisos to an International Treaty

The Armenian party may make or cancel provisos to an international treaty, while signing or ratifying, approving or joining it by the procedure defined in this law, as well as accept or object in accordance with the norms of international law and the requirements of this law against the provisos made to the same treaty by the other party.

The relative norms of the international law and this Law shall be applied to the legal consequences of the provisos and the objections thereto made in regard of an international treaty.

Article 33. Signing of a Deed or a Declaration in Regard of an International Treaty of the Republic of Armenia

1. The President of the Republic of Armenia shall sign the international treaties ratified by the National Assembly.

The President of the Republic of Armenia shall sign a deed in regard of the international treaty stipulated in this item, by which the other party to the treaty or its depositary shall be notified that the treaty has been ratified by the Republic of Armenia and it has become, thus, binding for the Republic of Armenia.

2. The President of the Republic of Armenia shall sign a declaration in regard of the resolutions adopted by the National Assembly of the Republic of Armenia on accession to an international treaty, by which the other party to a treaty or its depositary shall be notified of the accession of the Republic of Armenia to that treaty.

The deeds and declarations signed by the President of the Republic of Armenia shall be confirmed by the seal of the Republic of Armenia and the signature of the Minister of Foreign Affairs of the Republic of Armenia.

3. The Minister of Foreign Affairs of the Republic of Armenia in accordance with the procedure defined by this law shall sign and confirm by the seal of the Ministry of Foreign Affairs of the Republic of Armenia the deed in regard of an international treaty ratified or approved by the President of the Republic of Armenia or approved by the Government of the Republic of Armenia, as well as the declarations in regard of the decrees of the President of the Republic of Armenia or the resolutions of the Government of the Republic of Armenia on the accession to international treaties.

Article 34. Conclusion of Another International Treaty Arisen from an International Treaty of the Republic of Armenia in Force

1. Another international treaty arisen from the international treaty of the Republic of Armenia that has come into force by the procedure defined in this law may be concluded, if the treaty in force contains such a requirement or the conclusion of a new international treaty is necessary to ensure the discharge of the obligations undertaken by the treaty in force.

2. The new international treaty arisen from an international treaty of the Republic of Armenia in force shall be signed by the procedures of this law for signing an international treaty, if the treaty in force does not stipulate another procedure, or the newly concluded treaty does not stipulate such additional provisions that are subject in virtue of this law to ratification by the National Assembly of the Republic of Armenia.

Article 35. Amendments, Additions and Corrections to an International Treaty of the Republic of Armenia in Force

1. Amendments, additions and corrections may be made to an international treaty of the Republic of Armenia that has come into force by the procedure defined in this law.

The procedures for conclusion of an international treaty provided for in this law shall be applied whilst making amendments and additions, unless the treaty has defined a different procedure, or unless the amendments and additions has stipulated provisions that are subject to ratification in virtue of this law by the National Assembly of the Republic of Armenia.

The corrections in an international treaty shall be made in accordance with the norms of the international law.

2. If not otherwise stipulated by an international treaty of the Republic of Armenia, its terms and conditions shall be interpreted on the basis of the littoral meaning of the words and phrases contained in it. If the littoral meaning of a condition in a treaty is not clear, it shall be defined by means of comparing it with the other terms and conditions and the comprehensive meaning of the treaty.

If the rules stipulated in this item do not make it possible to determine the contents of a treaty, it shall be necessary to find out what the true common will of the parties is, by taking into account the goal of the treaty. All relevant circumstances including the negotiations and correspondence preceding the treaty, the regular manner of working within the framework of mutual relationship, the future conduct of the parties shall be at the same time taken into account.

CHAPTER IV STATE REGISTRATION, DEPOSITING AND PROMULGATION OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA

Article 36. State Registration of an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia that has come into force in accordance with the procedure defined by this law shall be subject to registration in the General Register for State Registration of International Treaties of the Republic of Armenia.

The General Register for State Registration of International Treaties of the Republic of Armenia shall be kept by the Ministry of Foreign Affairs.

The procedures and terms for state registration of international treaties of the Republic of Armenia and for filling-in and guarding of the general register of State registration of these treaties shall be defined by the Government of the Republic of Armenia.

2. The Ministry of Foreign Affairs of the Republic of Armenia shall submit an international treaty of the Republic of Armenia that has come into force in accordance with the procedure defined by this law to the United Nations Organization, as well as to other international organizations, of which the Republic of Armenia is a member, and the founding or any other documents of which stipulate that the international treaties of the member states shall be subject to registration or depositing in these organizations.

Article 37. Depositing of an International Treaty of the Republic of Armenia and Sending its Copies to Competent Bodies

1. The depositary of bilateral international treaties in the Republic of Armenia shall be the Ministry of Foreign Affairs of the Republic of Armenia.

If a multilateral international treaty stipulates that its depositary is the Republic of Armenia, then the functions of the depositary of that treaty shall be exercised by the Ministry of Foreign Affairs of the Republic of Armenia.

2. Within two weeks following the signing of an international treaty its original (a copy certified in the established procedure, its official translation) shall be deposited with the Ministry of Foreign Affairs of the Republic of Armenia.

3. Within one month following the coming into force of an international treaty of the Republic of Armenia the Ministry of Foreign Affairs of the Republic of Armenia shall send its copy with a note that the treaty has entered into force to the personnel of the National Assembly of the Republic of Armenia, of the President of the Republic of Armenia and of the Government of the Republic of Armenia, as well as to the Ministry of Justice and other competent departments of the Republic of Armenia.

4. The Ministry of Foreign Affairs of the Republic of Armenia shall provide the bodies mentioned in item 3 of this article with the information related to the cancellation, renewal and suspension of an international treaty of the Republic of Armenia, as well as with the information in regard of the prolongation of the action of a treaty, the term of which has expired.

Article 38. Official Promulgation of an International Treaty of the Republic of Armenia

1. An international treaty that has come into force in accordance with the procedure defined by this law shall be promulgated in "The Official Bulletin of International Treaties of the Republic of Armenia".

"The Official Bulletin of International Treaties of the Republic of Armenia" is an official periodical of the Ministry of Foreign Affairs of the Republic of Armenia published in the regularity established by the Ministry of Foreign Affairs of the Republic of Armenia.

2. The international treaties of the Republic of Armenia relating to human rights, liberties and obligations shall be promulgated as well in "The Official Bulletin of the Republic of Armenia" in accordance with the procedure defined by the legislation in regard of promulgation of laws and other normative legal acts of the Republic of Armenia.

CHAPTER V EXECUTION OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA

Article 39. Execution of an International Treaty of the Republic of Armenia

An international treaty of the Republic of Armenia that has come into force by the procedure defined in this law shall be subject to unconditional execution by the Republic of Armenia.

The Republic of Armenia shall refrain while executing an international treaty of the Republic of Armenia that has come into force from performance of actions, which may contradict the objectives and subject matter of the treaties.

Article 40. Ensuring the Execution of an International Treaty of the Republic of Armenia

The President of the Republic of Armenia, the Government of the Republic of Armenia and the Prime Minister of the Republic of Armenia shall take relevant organizational and legal measures within their jurisdiction to ensure the discharge of obligations undertaken by the Republic of Armenia under an international treaty.

Article 41. Executors of an International Treaty of the Republic of Armenia

1. The departments of the Republic of Armenia that have jurisdiction over the issues regulated by an international treaty of the Republic of Armenia shall ensure by it the discharge of obligations undertaken by the Republic of Armenia, shall exercise the rights of the Armenian party arising from the treaty and shall take measures to ensure the discharge of its (their) obligations by the other party (parties) to the mentioned treaty.

2. Proceeding from the nature of relations (interstate trade, defense of borders, stimulation of investment etc.) regulated by an international treaty of the Republic of Armenia and from the scope, significance and peculiarities of the obligations envisaged by it, other departments and other bodies of state, as well as of local self-government of the Republic of Armenia may be invited to be involved in the work of execution of that treaty.

3. Commercial and non-commercial organizations, institutions, as well as natural persons of the Armenian party and of the other party to an international treaty may participate in accordance with the procedure defined by this treaty, the legislation of the Republic of Armenia and that of the other party or other legal acts in the execution of the mentioned treaty, if their participation arises from this treaty.

4. The departments, other state bodies, bodies of local self-government, commercial and non-commercial organizations, institutions and natural persons mentioned in items 1-3 of this article shall communicate during the execution of a treaty of the Republic of Armenia with respective bodies, organizations, institutions and natural persons of the other party to this treaty through the Ministry of Foreign Affairs of the Republic of Armenia, if the treaty mentioned does not envisage a different procedure.

Article 42. Systemization of Execution of an International Treaty of the Republic of Armenia

The Ministry of Foreign Affairs of the Republic of Armenia shall supervise the execution of an international treaty of the Republic of Armenia. To this end, the Ministry of the Republic of Armenia shall be entitled to get acquainted in accordance with the procedure defined by the legislation with the state and the process of execution of an international treaty in competent departments and to systematize the work of the departments of the Republic of Armenia performed for the execution of an international treaty.

Proceeding from the state of execution of an international treaty, the Ministry of Foreign Affairs of the Republic of Armenia may submit, if necessary, appropriate proposals to the President of the Republic of Armenia, the Government of the Republic of Armenia or the Prime Minister of the Republic of Armenia.

CHAPTER VI

SUSPENSION AND TERMINATION OF ACTION OF AN INTERNATIONAL TREATY OF THE REPUBLIC OF ARMENIA

Article 43. Suspension of Action of an International Treaty of the Republic of Armenia

1. An international treaty of the Republic of Armenia that has come into force by the procedure defined in this law may be suspended in cases and by the procedure envisaged in the treaty with

the consent of all parties to the treaty on condition that it has been consulted with other states, as well as in cases stipulated by the norms of the international law.

2. The action of an international treaty may be also suspended, if:

- a) the Republic of Armenia is unable by objective reasons to timely and properly discharge its undertaken obligations in case of war or other military situation, economic or other blockade, earthquake, other natural disaster or other force major.
- b) the other party (parties) to an international treaty substantially violates (violate) its direct obligations under the treaty and jeopardizes the execution of that treaty,
- c) the other party (parties) to an international treaty has suspended the action of that treaty.

In cases set forth in this item the suspension of an international treaty of the Republic of Armenia shall be executed by notification of the other party (parties) through diplomatic channels and obtaining the consent of that party, if necessary.

The notification on suspension of an international treaty of the Republic of Armenia shall mention the reasons for suspension, as well as the term of suspension, if possible.

The suspension of an international treaty of the Republic of Armenia shall commence from the moment of notification of the other party about it through diplomatic channels or of the receipt of the official consent of the other party by

3. The action of the treaty shall be renewed upon elimination of the circumstances that have become a reason for the suspension of an international treaty of the Republic of Armenia. The Ministry of Foreign Affairs of the Republic of Armenia shall notify the other party (parties) thereof.

Article 44. Termination of Action of an International Treaty of the Republic of Armenia

1. The action of an international treaty that has come into force by the procedure defined in this law may be terminated (lose its force) in accordance with the procedure envisaged by that treaty and from the moment of:

- a) expiration of the term of an international treaty concluded for a certain period, if the term is not prolonged by the procedure defined in that treaty;
- b) notification by the Armenian party or the other party of the termination of an international treaty concluded for an uncertain period, if the term envisaged by the treaty has expired following that moment;
- c) the Republic of Armenia's coming out from that treaty by the procedure defined in the multilateral treaty;

The action of an international treaty of the Republic of Armenia may also be terminated, if the other party to an international treaty has ceased to exist as a subject of the international law, except in the cases when the party has been substituted by some other subject of international law, which has undertaken the obligations of the non-existing subject as its legal successor, as well as when a new (successive) treaty on the same issue has been concluded.

2. If an international treaty does not stipulate provisions on termination of its action, the termination (loss of force) of its action may be executed in accordance with the procedure defined by the norms of the international law.

Article 45. Invalidation of an International Treaty of the Republic of Armenia

The action of an international treaty that has entered into force by the procedure defined in this law may also be terminated by declaring its invalidation. The unilateral declaration of an international treaty of the Republic of Armenia as invalidated by the Republic of Armenia shall be the decision not to recognize this treaty by the procedure not defined by this treaty as binding any longer.

An international treaty may be declared invalidated for the Republic of Armenia, if the other party (parties) of the treaty:

- a) has (have) started a war or other military actions against the Republic of Armenia or undertakes (undertake) other actions threatening the constitutional order of the Republic of Armenia,
- b) substantially violates (violate) its own obligations under the treaty, creating as a consequence a situation when the Republic of Armenia does not find the treaty any longer binding,

c) has (have) declared invalidated an international treaty concluded with the Republic of Armenia.

The Republic of Armenia may declare an international treaty invalidated also in other cases stipulated by the norms of the international law.

An international treaty shall cease to be binding for the Republic of Armenia from the moment the decision on invalidation has been adopted by a competent body, if not otherwise stipulated by this decision.

Article 46. The Procedure of Suspension or Termination of an International Treaty of the Republic of Armenia

1. A proposal to suspend or to terminate an international treaty that has come into force by the procedure defined in this law may be made by:

a) the President of the Republic of Armenia in respect of an international treaty ratified by the National Assembly of the Republic of Armenia, except for the cases stipulated in sub-item "b" of this item;

b) the Government of the Republic of Armenia in respect of an international treaty ratified (approved) by the President of the Republic of Armenia;

c) the Ministry of Foreign Affairs of the Republic of Armenia in respect of remaining international treaties not specified in sub-items "a" and "b" of this item;

The body that makes the proposal shall substantiate the necessity for suspension or termination of an international treaty pointing out the motives.

2. The decision on suspension or termination of an international treaty of the Republic of Armenia shall be adopted by the National Assembly of the Republic of Armenia in respect of an international treaty ratified by it, by the President of the Republic of Armenia in respect of an international treaty ratified by him, or by the head of a competent body in respect of an interdepartmental treaty.

If an interdepartmental treaty of the Republic of Armenia is approved in accordance with this law by the President of the Republic of Armenia or the Government of the Republic of Armenia, the decision on suspension or termination of its action shall be also approved respectively by the President of the Republic of Armenia or the Government of the Republic of Armenia.

3. Within three days following the adoption of a decision by a competent body on suspension or termination of an international treaty of the Republic of Armenia, the Ministry of Foreign Affairs of the Republic of Armenia shall notify through diplomatic channels thereof the other party (parties) to that international treaty.

Article 47. Legal Consequences of Suspension of Action of an International Treaty of the Republic of Armenia

From the moment of suspension of the action of an international treaty of the Republic of Armenia the rights and obligations under the treaty shall temporarily cease to be effective in very entirety or partially for the Armenian party.

In the course of suspension of the action of an international treaty of the Republic of Armenia the Armenian party shall be obliged to refrain from such actions that may impede the renewal of the action of the international treaty.

Article 48. Legal Consequences of Termination of Action of an International Treaty of the Republic of Armenia

1. From the moment of termination of the action of an international treaty of the Republic of Armenia the rights and obligations stipulated by this treaty shall cease to be effective in their entirety for the Armenian party.

If an international treaty of the Republic of Armenia stipulates that the rights and obligations of the parties arisen for the execution of a treaty shall continue to be effective after the termination of its action, then these rights and obligations shall be effective till they are terminated in accordance with the defined procedure.

If an international treaty of the Republic of Armenia stipulates that the economic and other civil and legal treaties concluded in accordance with a treaty shall continue to be effective after the termination of its action, then these treaties shall be effective till they are terminated in accordance with the defined procedure.

2. If in accordance with an international treaty of the Republic of Armenia, the action of which has been terminated, there has been concluded and is effective another international treaty, then the latter shall continue to be effective and may be terminated in accordance with the procedure defined by that treaty, if not otherwise stipulated by the treaty with the terminated action, on the basis of which that treaty has been concluded.

Article 49. Legal Consequences of Invalidation of an International Treaty of the Republic of Armenia

From the moment of invalidation of an international treaty the treaty shall be considered null and void for the Armenian party, and the Republic of Armenia shall by that unilaterally release itself entirely from the execution of rights and obligations under that treaty, as well as from the responsibility for the consequences that may arise from obligations appeared in the course of the action of that treaty prior to its invalidation.

CHAPTER VII TRANSITIONAL AND CONCLUDING PROVISIONS

Article 50. Transitional Provisions

1. The provisions of this law that will regulate from the moment the law comes into force the relations of a respective stage and the stages that follow it shall be applied to an international treaty of the Republic of Armenia that is still in the stage of conclusion prior to this law coming into force.

2. The procedures of this law stipulated for conclusion of an international treaty shall apply to making amendments and additions to an international treaty of the Republic of Armenia concluded (entered into force) prior to this law coming into force, if the treaty does not stipulate another procedure, or the amendments and additions do not envisage such provisions that shall be subject in virtue of this law to ratification by the National Assembly of the Republic of Armenia.

3. A new international treaty that arises from an international treaty of the Republic of Armenia concluded (entered into force) shall be concluded prior to this law coming into force by procedures defined in this law for conclusion of an international treaty, if the treaty that entered into force does not stipulate another procedure, or if the newly concluded treaty does not stipulate such additional provisions that shall be in virtue of this law subject to ratification by the National Assembly of the Republic of Armenia.

Article 51. Entering into Force of this Law

1. This law shall come into force from the moment of its official promulgation.

2. The law of the Republic of Armenia of June 6, 1992, "On Conclusion, Ratification and Invalidation of International Treaties of the Republic of Armenia" shall be recognized as lost its force from the moment of entering into force of this law.

AUSTRIA

1. Title, rank and position of the Legal Adviser

The Legal Adviser holds the rank of “Head of Group” (see below point 4) and is entitled to carry the title of “Ambassador”.

2. Principal functions of the OLA

The main task of the OLA is to provide legal advice to the Minister and to other services of the Ministry on issues of public international law, European law, human rights law, and international humanitarian law, as well as on international aspects of constitutional matters and domestic law. Additionally, the OLA advises other Ministries on issues of public international law, European law, human rights law, and international humanitarian law.

The Legal Adviser represents Austria in certain legal proceedings and before international courts and tribunals (e.g. ICJ and ECHR, but not ECJ). The Legal Adviser and/or the members of the OLA attend international conferences concerning matters of international law, European law and human rights and participate in bilateral and multilateral negotiations.

In the human rights field the OLA covers not only strictly legal issues but is actively involved in policy formulation and representation of Austria's Position in multilateral fora such as the UN, the Council of Europe and the OSCE, including co-ordination among EU partners if applicable. The Human Rights Department also carries responsibility for matters pertaining to the Human Security Network.

The Treaty Office within the OLA administers the procedural aspects of the conclusion of treaties and keeps a list of the treaties concluded by Austria. In certain cases it fulfils depository functions.

3. Number of staff employed by the OLA

Currently there are about 20 University graduates, mostly lawyers, working in the OLA in Vienna. In principle, the Austrian diplomatic service has no special career track for lawyers and expects every diplomat to be a generalist. However, diplomats who have worked as a lawyer in the OLA tend to return more often to the OLA during their career in order to guarantee a certain degree of specialisation. Since there is no special career track for lawyers, there are no particular legal postings abroad. Nevertheless there are some postings that require legal expertise and that are, therefore, usually for diplomats who have worked in the OLA (e.g. postings at the Permanent Mission to the UN in New York and in Geneva or at the Permanent Representation in Brussels).

4. Organisation of the OLA

The Federal Ministry for Foreign Affairs consists of seven “sections” each of which has several departments. In some cases, departments within a section having a strong thematic link are put together in a “group”.

The OLA is a group directly under the Secretary General of the Foreign Ministry as head of the Central Section I (the present Legal Adviser also being Deputy Secretary General), consisting of three departments: the department for general international law (covering also constitutional and domestic law), the department for European law, and the department for human rights and international humanitarian law. Each department covers its specific issues and provides its respective services to the other departments in the Ministry.

Each department has one or more sub-departments for specialised areas: Treaty Office, multilateral legal issues, environmental law, EU first pillar issues, minorities, and gender issues.

Additionally, the OLA is supported by a consultant, normally a professor of international law. Currently, the consultant is Professor Hafner of the University of Vienna.

5. Place within the Ministry of Foreign Affairs

See above point 3 and 4.

6. Main contacts within Government

The OLA is the principal service within the Government for issues of public international law, general European law, international human rights law, and international humanitarian law. Therefore, the OLA advises other Ministries when they have to deal with these issues.

The OLA has privileged contacts with other legal services of the Government, in particular with the Constitutional Law Service at the Federal Chancellery, the Ministry of Justice and the State attorneys (Finanzprokuratur) at the Ministry of Finance.

Since the Legal Adviser represents Austria in certain legal proceedings and before international courts and tribunals, he acts as an agent for the Government (see above point 2).

7. Relations with lawyers in private practice, academics and legal institutions

The OLA is approached on a regular basis by Austrian private lawyers when they have to deal with issues of public international law. In law-suits against Austria abroad the OLA liaises with the private lawyers representing Austria.

The OLA has always had a close relationship with the academic world. Members of the OLA participate in the annual Austrian conference on international law (Völkerrechtstag) and meet with academics on a regular basis to discuss current issues of international law and European law. University assistants working in the field of international law have the possibility to work in the OLA for a certain time. Some of them later join the diplomatic service and work in the OLA.

Furthermore, the Legal Adviser and some members of his staff are holding seminars on international legal issues at the Diplomatic Academy of Vienna and at Austrian universities.

BELGIQUE

1. Quels sont les titre, rang et position du Conseiller juridique?

« Directeur général des Affaires juridiques » du Service public fédéral Affaires étrangères (SPF). Il rapporte au Président du Comité de Direction, dont il est aussi un des membres.

2. Quelles sont les principales fonctions du BCJ?

Il réalise les objectifs de son domaine fonctionnel, en concertation avec les autres services opérationnels et d'encadrement du SPF Affaires étrangères.

Les différents domaines fonctionnels dépendant de son autorité sont :

- droit interne: toutes les questions juridiques en matière de droit interne liées à la gestion du Département (droit du travail et des contrats, droit constitutionnel et administratif, droit civil, ainsi que les litiges portés devant les cours et tribunaux et devant le Conseil d'Etat) ;
- droit européen: concertation et coordination dans le cadre de la mise en œuvre et de l'interprétation du droit européen (questions préjudicielles); défense de l'Etat belge devant les instances juridiques européennes; coordination des Départements ministériels dans le domaine de la transposition du droit européen en droit national ;
- droit international public: toutes les questions juridiques relatives au droit international public ou aux organisations internationales y compris toutes les questions juridiques concernant le fonctionnement et le statut des cours et tribunaux internationaux; représentation de la Belgique au sein des organes de l'ONU, du Conseil de l'Europe, de l'Union européenne dans lesquels ces thèmes sont traités; défense des intérêts de l'Etat devant les cours et tribunaux internationaux ;
- droit des traités: gestion de tous les aspects formels de la conclusion des traités de caractère fédéral et mixte (compétences fédérales / communautaires et régionales), depuis la signature jusqu'à leur approbation; mission de dépositaire pour plus de 60 conventions multilatérales; rôle de cellule d'information pour toutes questions en rapport avec l'état d'avancement des traités; mener à bien la ratification de ceux-ci ; le « BCJ » joue aussi un rôle dans les relations avec les Communautés et les Régions de Belgique : application et évaluation des accords de coopération en vigueur avec les entités fédérées, y compris l'arbitrage des divergences de positions.

3. Description du personnel employé.

La Direction générale (BCJ) compte un effectif moyen de 45 personnes (équivalant à 30 temps plein), dont une quinzaine de juristes. Il n'y a pas de fonctionnaires en poste à l'étranger. Toutefois le SPF Affaires étrangères utilise, dans certains postes spécifiques (missions au siège des principales organisations internationales), les compétences juridiques de certains diplomates. Elle peut aussi faire appel à la collaboration temporaire d'hommes de loi extérieurs.

4. Organisation et structure.

La Direction générale (BCJ) est structurée en 4 directions ou sections : droit interne, droit européen, droit international public et droit des traités. Elle est dotée d'un secrétariat.

5. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères.

Les services du BCJ du SPF Affaires étrangères sont organisés en une direction générale - une des six directions générales - du département. Elle occupe une position centrale en inter-relation avec toutes les autres dans la mesure où elle fournit des conseils juridiques pour la plupart des matières traitées au département.

6. Principaux contacts du BCJ au sein du Gouvernement.

Au sein du SPF Affaires étrangères, le BCJ peut être en contact avec le cabinet ministre des Affaires étrangères ou avec le ministre directement. Il peut prendre contact avec le cabinet des autres membres du Gouvernement.

7. Relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.

Le BCJ entretient des contacts réguliers avec plusieurs cabinets d'avocats spécialisés, lesquels peuvent être sollicités pour donner des avis dans certaines affaires litigieuses ou aider le BCJ dans l'exercice de sa fonction de représentant de l'Etat belge devant les juridictions nationales ou internationales. Le BCJ entretient également des contacts avec des professeurs d'universités et des instituts de science juridique, soit pour les besoins spécifiques du département, soit pour des échanges scientifiques.

CROATIA

1. Title, rank and position of the Legal Adviser

The Head of the International Law Department - ILD - gives legal opinions and advises in relation to all acts of the Republic of Croatia in international relations from the point of view of international law. The competences of the ILD are governed by the Regulations on Internal Organisation of the Foreign Service (Official Gazette No. 38/04). The ILD is part of the diplomatic service. Its Head is a high-ranking professional diplomat, a lawyer specialised in international law with diplomatic training.

2. What are the principal functions of the OLA?

The ILD is competent for all affairs in connection with the follow-up, monitoring and analysing general and particular issues of international public and private law. Its functions are to provide legal advice and opinions on all matters arising from international law, especially the law of the sea, the law of international organisations, the status of international organisations and their offices, the law of the European Union, international diplomatic and consular law, international humanitarian law, international environmental law, international commercial law, international transport law, international criminal law. The ILD also deals with issues in relation to the national borders and border regime. It acts in conjunction with the Government and public bodies in respect of all issues within its competence and deals with other tasks as assigned by the minister or the head. The ILD has a very important function in the process of concluding the international treaties on behalf of the Republic of Croatia – by issuing its opinion on a draft treaty from the point of view of international law. A legal adviser from the ILD is a regular member of the Croatian delegation negotiating the treaty. In the process of ratification, the ILD is competent to initiate the procedure before the Government. The Treaty Collection of the Republic of Croatia, covering all treaty actions undertaken by the Republic of Croatia, is kept with the ILD. The ILD is also in charge of printing and other arrangements for treaty signing.

3. Please give a brief description of the staff employed by the OLA, including overseas staff.

The ILD staff comprises 10 lawyers, including the Head. All of them are specialised or specialising in various fields of international law, by attending post-graduate studies and participating in various courses at international institutions dealing with public and private international law. Except for a few junior colleagues most of the staff, including the Head, have been with the Ministry and in the ILD for more than ten years, i.e., from the early days of the constitution of Croatia as an independent State.

A number of ILD staff is posted overseas, in particular with the Permanent Croatian Missions to the UN in New York and Geneva, the Croatian Mission to the EC in Brussels and the Croatian Embassy in the Hague.

Apart from the lawyers, four administrators at the ILD are engaged in making arrangements for the signing of treaties as well as other jobs in connection with the Treaty Collection and the ILD's Reference Library. Four diplomats with diverse professional background work in the ILD section for border issues.

4. Briefly describe organisation and structure of the OLA.

The International Law Department is divided into the following Sections:

Section for General and Particular Questions of International Law

Treaty Section

Section for Border Issues.

Each Section has a head, accountable to the ILD head for the organisation of the section and completing all the tasks.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The ILD is an independent department within the Ministry of Foreign Affairs, reporting directly to the Minister.

6. What are the main contacts of the OLA within the Government?

The ILD head, as well as the ILD as a whole, maintains regular working contacts with high-ranking Government and Parliament officials, as well as with other ministries, agencies and institutions, as required for the completion of the tasks. The ILD Head or other lawyer takes part, alone or in conjunction with high-ranking Ministry officials, in the work of Government bodies and in Parliament sessions when necessary.

7. Please describe the relation of the OLA with lawyers in private practice, academics and legal institutions.

The ILD closely co-operates with the academics, especially professors of international law at the Faculty of Law, University of Zagreb. ILD staff are encouraged to participate in various seminars, courses and other gatherings dealing with international law issues, and they get invited to give lectures to undergraduate or graduate students on subjects they are specialised in. The ILD Head regularly lectures on international law issues at the Diplomatic School in the course of training for foreign assignment. Depending on the post the diplomat is preparing for, he/she will often hold consultations within the ILD about some particular international law issues. The ILD also provides assistance to private practice and legal institutions.

8. Please provide a brief bibliography on the OLA, if available.

For the time being there is no bibliography which refers in particular to the role of the ILD.

ESTONIA

1. What are the title, rank and position of the Legal Adviser?

The Deputy Under-Secretary for Legal and Consular Affairs is fulfilling the functions of the Legal Adviser in the Ministry of Foreign Affairs (MFA). The Deputy Under-Secretary is supervising two departments – legal and consular and substitutes the Permanent Under-Secretary if needed.

2. What are the principal functions of the OLA?

The principal function of the OLA, which is fulfilled by the Legal Department, is to give legal advice to the officials of the Ministry. The scope of advice given is wide: on public and private international law, human rights law, European Union law as well as domestic law (contracts, public procurement, public service, etc). The Legal Department also gives legal advice on international, European and foreign law to other ministries and departments. It participates in the legal drafting of primary and secondary legislations when issues concern the MFA's competence. The diplomats in the Legal Department represent Estonia as agents before international courts (e.g. European Court of Human Rights and European Court of Justice), in negotiations of international agreements, conferences, etc.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

There are 19 diplomats in the Legal Department in Tallinn, all having a law degree and many also an advanced degree in international or European law. There is one legal adviser in the Estonian Permanent Representation to the EU. There are currently no legal advisers in the Estonian Mission to the UN or in the embassies.

4. Briefly describe the organisation and structure of the OLA.

The Legal Department is divided into four divisions: Public international law and legal drafting, International agreements, Human rights and European Union law divisions. Each division has 4-5 lawyers (who also belong to the diplomatic service) and 1-2 technical officials. Each division has its head and the department is run by the Director-General. There is a degree of specialisation between the lawyers (e.g. in the International agreements division, lawyers allocate agreements they work on according to topics), the Agents for the Government before the ECHR and ECJ in the Human rights division and EU law division naturally concentrate on the cases against Estonia.

5. What is the OLA's place within the Ministry of Foreign Affairs?

Legal Department is a unit within the MFA, headed by the Director-General and supervised by the Deputy Under-Secretary for Legal and Consular Affairs who reports directly to the Minister and the Permanent Under-Secretary. The four divisions in the Legal Department are run by the divisions' heads. As been said, the lawyers in the Legal Department are in the diplomatic service and can rotate to other departments and embassies.

6. What are the main contacts of the OLA within Government?

As been said in the answer to question 2, the lawyers in the Legal Department take part in drafting the legislation, *inter alia* making sure that the drafts are compatible with Estonia's international obligations. The lawyers are members of inter-governmental commissions and delegations for the negotiations of international treaties and frequently give advice on points of international and European Union law. All the treaties are submitted to the Government for approval by the MFA. The MFA lawyers prepare in close co-operation for the proceedings before international courts with officials of other ministries. The Human rights division compiles Estonian reports to human rights treaties from various contributions from line ministries and departments.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The MFA is sometimes represented by private attorneys in domestic litigations against the Ministry. There are also active contacts with academic institutions - lawyers from the Legal Department give frequently lectures in universities either on permanent or ad hoc basis and many of them are members of the International Law Association. They are also encouraged to make contributions to international and domestic legal publications.

FINLAND

1. Title of Legal Adviser and the Legal Office

The function of the Legal Adviser is executed by the Director General for Legal Affairs, head of the Legal Department of the Ministry for Foreign Affairs (henceforth MFA). Acting as the Legal Adviser, the Director General is assisted by one of the two Deputy Director Generals and, in particular, the Unit for Public International Law. Furthermore, the Legal Adviser can draw special expertise from the Unit for Treaty Law, the Unit for EU Law, and the Unit for Human Rights Courts and Conventions (see point 4 below).

The Legal Department is one of the twelve departments of the Ministry for Foreign Affairs. It has a mixed staff, with both diplomatic personnel (some of the legal advisers and most of the supporting staff being part of the General Foreign Affairs Diplomatic Service career) and expert personnel (most of the legal advisers being so called special legal experts). Unlike the diplomatic staff, the special legal experts stay at the specific expert position in the Legal Department for which they have been appointed.

2. Principal functions of the Legal Department

The principal functions of the Legal Department can be divided into two subcategories: advisory functions and operational functions. As far as the advisory functions are concerned, the Legal Department provides advice in public international law, including human rights law, treaty law and EU law, primarily to the Ministry for Foreign Affairs and secondarily to the Government as a whole. The operational functions include representation of the Government in various international fora, such as the UN, the EU and the Council of Europe regarding matters which fall under the competence of the Legal Department, representation of the Government before international judicial and investigative bodies (including the European Court of Justice, the European Court of Human Rights, and the International Court of Justice), and preparation of national legislation. A further category of operational tasks consists of consular issues, in which connection questions of private international law, especially concerning family law (child abductions etc) often arise, as well as issues relating to passports, visas, and residence and work permits and the organisation of national elections abroad.

3. Number of lawyers including those working abroad in embassies

There are currently approximately 85 staff members working in the Legal Department in Helsinki, of whom 11 are diplomats, 23 special legal experts and the rest administrative staff. There are also legal advisers in the Finnish Permanent Mission to the UN in New York and in the Finnish Permanent Representation to the EU in Brussels.

4. Organisation of the Legal Department

The Legal Department is organised in seven different units, and it is headed by a Director General who is assisted by a First Deputy Director General and a Second Deputy Director General. The Units are:

- 1) Unit for EU Law
- 2) Unit for EU Litigation
- 3) Unit for Public International Law
- 4) Unit for Treaty Law
- 5) Unit for Human Rights Courts and Conventions
- 6) Unit for Consular Services
- 7) Passport and Visa Unit.

As mentioned in Section 2, some of the legal advisers who work permanently for the MFA are part of the Diplomatic service and some are non-diplomatic special legal advisers. In addition to

permanent staff, the MFA occasionally hires non-permanent staff to cater for temporary human resource needs.

5. Place within the Ministry for Foreign Affairs

The Ministry for Foreign Affairs is organised in functional and geographical departments, of which the Legal Department belongs to the former category. Examples of other functional departments include the Political Department and the Department for Development Policy.

6. Main Contacts with the Government

The Legal Department provides advice specifically to the Ministry for Foreign Affairs and to the foreign relations committee of the Government. The principal legal adviser for the Government is the Ministry of Justice, and the legal supervisor of the Government is the Chancellor of Justice. However, as far as public international law is concerned, the Legal Department is the only expert body to provide advice to the Government as a whole. As mentioned in Section 2, the Legal Adviser acts as the agent of the Government before the ICJ, the ECJ, and the ECHR. The Legal Adviser is a member of the Panel of Lawyers in the Permanent Court of Arbitration in The Hague.

7. Relations with lawyers in private practice, academics and legal institutions

The Legal Department is an active participant in public debates, academic conferences and seminars. From time to time, the Legal Department organises conferences and seminars on topical issues of international law open to academics, practitioners and students of law and journalists. Legal advisers are encouraged to participate in both national and international conferences, as well as to engage in debates and discussions on contemporary topics related to their field of expertise. The Director General for Legal Affairs chairs the National Committee on IHL.

GREECE

1. What is the title, rank and position of the Legal Adviser?

The Legal Department of the Ministry of Foreign Affairs was created in the 1920s. It consists of two sections: the section of Public International Law and the section of European Law. Each one has its own head who is a senior Legal Adviser. Both are directed by the 'Special Legal Adviser'. The Legal Department reports directly to the Ministers of Foreign Affairs. A Bureau for International Treaties is located within the premises of the Section of Public International Law.

2. What are the principal functions of the OLA?

The principal functions of the Legal Department is to provide legal advice to the Ministers and the Political and other Departments of the Ministry of Foreign Affairs. This involves advice on questions of Public International Law and European Law. Legal Advisers act as Agents for the Government before international Tribunals including the International Court of Justice and the European Court of Justice. They also attend international conferences and meetings as head or members of the Greek delegation thereto.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

There are around thirty lawyers in both sections, eleven of which in the section of Public International Law. A limited number of legal advisers may be posted abroad, especially in Brussels.

4. Briefly describe the organisation and structure of the OLA.

Within each section Legal Advisers may be asked to respond to any request concerning issues involving International Law. However in practice each Legal Adviser specializes on certain issues (such as Human Rights, the Law of the Sea, Diplomatic Immunities etc).

There are four ranks within Legal Advisers in descending order: the Special Legal Adviser, Legal Advisers, Deputy Legal Advisers, and Assistant Legal Advisers ('Rapporteurs').

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Department is an independent Department within the Ministry of Foreign Affairs (see also reply to question no 1).

6. What are the main contacts of the OLA within Government?

The Legal Department offer advice on international law issues within the Government and are consulted by other Ministries on such issues. They cooperate with the Government Legal Service (the 'State Legal Council') who deal with questions of domestic law and represent the country before the European Court of Human Rights. The Legal Department also retains close links with the Scientific Council operating in the Ministry which consists of academics and other experts who may be asked to provide legal opinions on matters of interest to the Ministry.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The Legal Department retains close contacts also with universities and other legal institutions and its members are often invited to participate in various events such as conferences, seminars, meeting, lectures etc. They may also organize such events at their own or the Ministry's initiative. Members of the Legal Department are also encouraged to write articles or books on issues of International Law.

THE NETHERLANDS

1. What is the title, rank and position of the Legal Adviser?

In the Netherlands the function of Legal Adviser of the Ministry of Foreign Affairs is attached to the function of Head of the International Law Division in the Legal Affairs Department. In contacts within the Netherlands' administration the Legal Adviser is referred to as Head of the International Law Division. In contacts with the embassies and international legal institutions in The Hague and at international meetings he is referred to as "Legal Adviser".

2. What are the principal functions of the OLA?

The principal functions of the OLA are to advise the Minister of Foreign Affairs as well as policy departments within the Ministry on issues of public international law. Also the OLA may advise other ministries if complex issues of public international law exceed the specific expertise of lawyers in those ministries. The OLA acts as guardian of the consistency in the positions taken by the Netherlands' government on issues of public international law, *inter alia* in the process of the negotiation of treaties. The OLA participates in Netherlands' delegations to international conferences with a view to securing the correctness of Netherlands positions from the perspective of public international law. The OLA acts on behalf of the Kingdom of the Netherlands as agent in international judicial proceedings – such as the International Court of Justice and the European Court of Human Rights – or in international arbitral proceedings.

Representation of the Netherlands before the Court of Justice of the European Communities is not the responsibility of the OLA but of a sister division in the Legal Affairs Department, the European Law Division.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

The OLA comprises a head of division/ also Legal Adviser, a deputy head, ten staff members (senior legal counsels) and one secretary. Other administrative functions such as archivists and documentalists are shared by all divisions of the Legal Affairs Department (i.e. apart from the International Law Division and the already mentioned European Law Division there are also divisions for civil law, treaties, and administrative law).

4. Briefly describe the organisation and structure of the OLA.

See the reply to question 3.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Affairs Department (including the OLA) is attached to the Office of the Secretary-General of the Ministry of Foreign Affairs.

6. What are the main contacts of the OLA within Government?

The main contacts of the OLA within the Government are with the (legal) departments of – in particular – the Ministries of Justice, Defence, Transport and Water Management, Environment and Finance.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

Main contacts with lawyers in private practice are those with the lawyers of the government attorney (the office of the government attorney is also a private law office); contacts with

academics take place in particular in the framework of the contacts with an external advisory body, the Advisory Committee on Issues of Public International Law, which to a large extent consists of academics; contacts with legal institutions are mainly with the T.M.C.Asser Institute (an inter-university institute for the promotion of the study of international law) and the Netherlands Association for International Law (a branch of the ILA).

8. Please provide a brief bibliography on the OLA, if available.

A bibliography on the OLA is not available.

NORWAY

1. TITLE OF THE LEGAL ADVISER AND THE LEGAL OFFICE

The Legal Adviser holds the rank of Director General within the Ministry of Foreign Affairs (MFA). The Director General is head of the Department for Legal Affairs (DLA), and is assisted by a Deputy Director General.

The Director General is traditionally a career diplomat, as most high ranking officers of the DLA. The DLA comprises both lawyers belonging to the diplomatic staff of the MFA and particular legal experts, who work permanently within the DLA.

The Director General of the DLA reports to the Secretary-General of the MFA, but may provide direct advice to the political staff of the MFA and other Ministries.

2. Principal functions of the DLA

The DLA of the Norwegian MFA supports all other departments of the MFA, as well as other governmental bodies, in matters concerning international legal issues. This includes providing a unified legal service for the various departments with regard to interpretations and dispute settlement, as well as assisting policy makers in formulating and carrying out the foreign policies of Norway. Moreover, a particular field of work stems from also being in charge of consular affairs in the Norwegian Foreign Service. Other specific fields of work are related to the particular relationship agreements and cooperation between Norway and the EU, particularly through the European Economic Area Agreement. The DLA is furthermore in charge of legal issues related to the WTO, including dispute settlement.

Key priorities

- Promoting compliance with international legal obligations and the strengthening and development as well as the effective implementation of the international legal order.
- Providing timely and operational advice on all legal issues, arising in the course of the MFA's work.
- Contributing to an effective formulation and implementation of Norwegian foreign policies, including international development policies.

Core functions of the DLA include:

- Providing legal and operational advice on issues of international law, Norwegian constitutional law related to international law, and consular matters.
- Providing legal and operational advice on issues of domestic law, arising in the course of the MFA's work. This includes *inter alia* preparing legal opinions and advice on constitutional and administrative law, including the Public Information Act, and commenting on new draft legislation or policy documents. The DLA moreover coordinates all comments by the MFA on draft legislation and interministerial hearings concerning white papers and other policy documents.

Supervising all functions related to Norway's treaty matters, including providing advice to other Ministries on drafting, analysis and negotiations. The DLA is responsible for finalizing the internal legal procedures of approval of all international treaties, as well as treaty registration and publication, including on the Internet.

- Representing Norway in various international fora on issues falling within the competence of the DLA, e.g. in bodies of the UN and the special agencies, various treaty bodies, EU/EEA organs, the Council of Europe, NATO and other regional bodies or arrangements. Representatives of the DLA also negotiate agreements in other areas, or assist at international conferences and meetings in international organizations with the purpose of negotiating international conventions and other legal instruments.
- Negotiating or providing policy advice on a range of bilateral matters, including maritime delimitation.
- Formulating policies and ensuring operational follow-up in particular areas, including within the field of ocean affairs.
- Acting as agents on behalf of the Norwegian Government before international courts and dispute settlement mechanisms, including but not limited to the EFTA Court, the European Court of Justice, and the dispute settlement organs of the WTO. Assisting the Attorney General for Civil Affairs in certain cases before the European Court of Human Rights.
- The Consular Section of the DLA is operationally responsible for supervising and promoting assistance to Norwegian citizens abroad in all kinds of consular matters.
- The DLA has the responsibility for budgetary and other administrative functions with regard to international courts and certain treaty bodies. The same applies with regard to supervision of geodetic and other work related to Norwegian borders or boundaries.
- Other MFA departments may have functions which require staff with legal background, particularly in the fields of administration, human rights policies and development assistance. The DLA may, however, be called to assist also in such matters and will supervise handling of any issues of legal interpretation and dispute settlement.

3. Brief description of staff employed by the DLA

Staff numbers include close to 30 lawyers and 10 administrative staff members in various functions, including consular assistance. The DLA staff thus comprises approx. a total of 40 members. Among the lawyers around 15 belong to the diplomatic staff of the MFA.

There are no designated legal advisers working at diplomatic missions abroad belonging to the DLA. However, larger representations and certain multilateral posts regularly have lawyers among their diplomats. Experience has shown the particular importance of having relevant legal experience at Norwegian missions to the UN and the WTO, both in New York and Geneva, and to the EU in Brussels, as well as at some larger embassies.

4. The organisation and structure of the DLA

The DLA consists of three main unit, each headed by a Deputy Director General, who report to the head and deputy head of the DLA:

- Section for International Law
- Section for European/EEA, Trade and Environmental Law
- Section for Consular Affairs

The lawyers at the DLA are to an increasing degree specialized within various fields of law within their respective sections.

The Section for International Law has about 20 staff members, whereas the two other Sections have approx. 10 staff members each.

5. The DLA's place within the Ministry

The DLA is one of ten departments within the whole MFA, which in Norway is also the competent Ministry for international development issues.

6. The main contacts of the DLA with the Government

Particularly in matters relating to international law and European/EEA law, the DLA provides advice in the preparation of various Government documents. In so doing, extended contacts take place with the whole State administration.

The DLA is responsible for the preparation of treaties being concluded on behalf of the Government of Norway. The DLA is normally involved both in negotiating treaties and finalizing the internal legal procedures.

Representatives of the DLA may act as agents on behalf of the Government in international judicial procedures, often in cooperation with the Attorney General for Civil Affairs, who offers judicial advice and conducts civil cases on behalf of the Government particularly before domestic courts.

7. The relations of the DLA with private lawyers, academics and legal institutions

A professor of international law at the University of Oslo is attached to the DLA, and provides advice in the field of international law. Some of lawyers of the DLA teach at university, and also participate in debates and conferences on topics related to their field of expertise.

There is close cooperation with the Attorney General for civil affairs. Moreover, private lawyers may be engaged when necessary, for example in connection with law suits.

PORTUGAL

1. What is the title, rank and position of the Legal Adviser?

The “Department of Legal Affairs” (DLA) of the Portuguese Ministry of Foreign Affairs (MFA) was created 10 years ago, in February 1994, replacing the previous legal office (legal and treaty office). The Department is headed by a Director, who holds the rank of a Director-General within the MFA. The Director can be a diplomat or be recruited outside of the diplomatic service (civil servants, lawyers, professors of law, etc.). Since 1994, there have been three directors, who were recruited outside of the diplomatic service.

2. What are the principal functions of the OLA?

The DLA is a central service that provides support and advice to the Minister and to the other services of the MFA with regard to both international and domestic law. Its “core business” is international law, though it has responsibilities also with regard to domestic law. There are other services in the MFA outside the DLA that deal with legal issues, namely regarding European law.

The DLA also gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval.

The Director of the DLA has acted as agent for the Government before the International Court of Justice (but not before the European Court of Human Rights, which is currently dealt with by the Ministry of Justice and the Office of the Attorney-General, or the European Court of Justice).

The DLA is responsible for following the principal international legal forums such as the COJUR with the CFSP in the European Union, the CAHDI of the Council of Europe and the 6th Committee of the United Nations General Assembly.

It also has important responsibilities in the field of international judicial co-operation: it receives and transmits extradition requests as well as all other judicial acts involving foreign courts.

3. Please give a brief description of the staff employed by the OLA, including overseas staff.

There are currently 9 persons working in the DLA in Lisbon, including the Director, from which 2 are career diplomats. The other 7 are lawyers, professors of international law, civil servants and consultants with a law degree. There are also at the moment 2 trainees that help with research work and 1 translator.

The DLA has no overseas staff, although there are posts of legal advisers in several diplomatic missions and embassies (e.g. Permanent Missions to the UN in New York and Geneva, Permanent Representation to the EU in Brussels, Embassies in Madrid and Maputo, etc.).

4. Briefly describe the organisation and structure of the OLA.

The DLA is structured around two services: international law service and domestic law service. Each service has a director that reports to the Director of the DLA. These directors are either diplomats or civil servants. The staff is divided between these two services (5 in the international law service, including the director, and 3 in the domestic law service).

There is also a translation section.

The DLA has no financial autonomy, the budget being administered by the Secretary-General and the Department of Administration of the MFA.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The DLA is a central service of the MFA, whose head ranks as Director-General and reports directly to the Minister and Secretaries of State. The Director and his staff are not part of the diplomatic service, but career diplomats may also be posted in the DLA while in Lisbon.

6. What are the main contacts of the OLA within Government?

The DLA gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval. Therefore, all international agreements and other instruments concluded by Portugal, even if negotiated by other departments in the MFA and other governmental departments have to be approved by the DLA.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The MFA/DLA may hire lawyers in private practice, when need arises, such as for example, to act as counsel and advocate in proceedings before international courts and tribunals. Legal opinions may also be requested to lawyers in private practice or to academics.

At the moment, the DLA employs 2 professors of international law (the director and a consultant) and sometimes entrusts academics that are specialists in given fields to attend certain international meetings (International Criminal Court negotiations, etc.).

8. Please provide a brief bibliography on the OLA, if available.

There is currently no bibliography on the Portuguese DLA.

RUSSIAN FEDERATION

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser's title is the Director of the Legal Department of the Ministry for Foreign Affairs of the Russian Federation. At present the Director of the Legal Department is also a member of the Collegial Board of the MFA dealing with most significant matters of the foreign policy. The Director daily contacts the Deputy-Minister for the Foreign Affairs and in urgent cases can report directly to the Minister.

2. What are the principal functions of the OLA?

In general principal functions of the Department are to provide advise on matters of the international law relating to foreign policy, to make proposals and report on matters of codification and progressive development of the international law, to deal with international law aspects of maintenance of international security, pacific settlement of disputes, issues of succession, continuity, recognition; to consider legal aspects of armed conflicts, international humanitarian law; diplomatic and consular law. The Department provides for maintenance of the Ministry's registrar of international treaties, acts as depositary; reports on matters of conclusion, suspension of international treaties, on the status and interpretation of treaties, reservations and objections thereto. The Department maintains the treaty database; participates in drafting treaties including on state boundaries, demarcation; in formulation of Russia's position on protection of human rights, on legal assistance to Russian citizens abroad, on citizenship, status of aliens. Within the Department's competence are issues of the law of the sea, space law, Arctic and Antarctic, environmental law. The Department covers legal aspects of various international organizations activities including UN, OSCE, CIS, EU, NATO, ICAO, WIPO, etc.; advises on investment and dual taxation treaties; on status of IOs in Russia. It provides legal opinion on any document originating from the Ministry containing matters of international law.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

Professional staff of the Legal Department (approx. 45 pers.) varies in age and rank. Gender balance is approx. 50/50, where each professional staff member has high educational legal background and possesses knowledge of foreign languages.

4. Briefly describe the organisation and structure of the OLA.

The Department is divided in a number (6) of divisions covering separate branches of international law: international public law, international private law, law of treaties, legal aspects of multilateral cooperation, general issues of international law, legal aspects of state boundaries.

5. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Department is one of the functional departments of the MFA.

6. What are the main contacts of the OLA within Government?

During exercise of its functions the Department contacts relevant departments of the ministries and agencies within the Government of the Russian Federation, the Russian Parliament (the State Duma and the Federal Council) as well as its subsidiary bodies, the administrative organs of the regions of the Russian Federation and local self-governance authorities.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The Legal Department promotes contacts with the Russian Association of International Law, various Russian scientific and educational institutions, dealing with matters of international law. A number of the Department's officials lecture in the Moscow State Institute for International Relations and Diplomatic Academy on numerous aspects of international law.

8. Please provide a brief bibliography on the OLA, if available.

Bibliography on the Legal Department itself is not available; nevertheless, its opinion on the use of force has been recently published in ICLQ, vol. 52, part. 4, Oct. 2003, 1059-1063.

SLOVENIA

1. Title of the Legal Adviser and the Legal Office

The Legal Adviser is Head of the International Law Department. The Legal Advisers are part of the Diplomatic Service.

2. Principal functions

The principal function of the Office of the Legal Adviser is to provide legal advice to the Minister of Foreign Affairs and other Departments within the Ministry of Foreign Affairs on issues of public international law and EU law. It also provides legal advice to all other Ministries of the Government, assists with drafting the texts of the agreements, the administrative procedure with regard to their conclusion and ratification in the Government or the Parliament. Its representatives attend bilateral and multilateral agreement negotiations. It also prepares legal analyses, reports and other information for the Ministry of Foreign Affairs, other bodies of the Government, and the Parliament. The Legal Adviser or his deputies attend meetings of the Parliament committees and the plenary Parliament sessions. It supervises all the phases of the conclusion of international agreements and other international legal acts of Slovenia, keeps the register and acts as a guardian of the treaties. The Legal Adviser and members of the Office frequently attend conferences and meetings in Slovenia and abroad.

3. Number of lawyers including overseas staff.

There are currently about 12 lawyers working in the International Law Department in Ljubljana. The Slovenian diplomatic service has no special career track for lawyers, and there are also no special legal postings abroad.

4. Organisation of the Legal Office.

The Legal Office has two units: the Unit for public international law and the Unit for EU law. Both units perform similar functions, and the legal advisers in those units specialise either for questions of public international law or EU law, respectively. Each legal adviser is assigned a number of areas, i.e. internal affairs, environment, defence, including the international organizations, and his work focuses mainly on those areas. Legal advisers are, however, expected to take on a variety of work from different areas of law.

The work of the office is supported by a registry.

5. Place within the Ministry of Foreign Affairs

As has been said the Legal Adviser is a head of the International Law Department and reports to the State Secretary. Officers, who serve in the department, are part of the Diplomatic Service.

6. Main contacts within Government

The Office of the Legal Adviser is the principal service within the Government for the issues of public international law and EU law. The Office has close contacts mostly with the Government Office for Legislation and the Ministry of Justice.

The Office of the Legal Adviser has a general advisory role and must be consulted in advance on all the international agreements and other legal acts, entered into by the Government.

7. Relations with lawyers in private practice, academics and legal institutions.

Lawyers in private practice are retained by the Ministry of Foreign Affairs mostly in cases of suits abroad, or where the need arises. The Legal Office is supported by the Law Professors at the Law Faculty of the University of Ljubljana, and often retains them as consultants.

SWEDEN

1. Title of the Legal Adviser and the Legal Office

From January 1st, 2002, there is a sole Legal Adviser in the Ministry for Foreign Affairs. The Legal Adviser, whose official title in English is Director General for Legal Affairs, holds the rank of Ambassador within the Ministry for Foreign Affairs.

2. Principal functions

The principal function of the Director General for Legal Affairs is to have an overall comprehensive responsibility primarily for legal matters falling within the competence of the two Legal Secretariats, one of which is for European Community Law matters and the other for Public Administrative and Constitutional Law matters within the Ministry, the International Law and Human Rights Department, the Department for Consular Affairs and Civil Law and the Department for Migration and Asylum Policy.

The Director General for Legal Affairs is one of six Director Generals within the Ministry. One for Policy matters, one for Trade matters, one for Migration matters for Development matters and one who is responsible for administrative and staff questions within the Ministry. Together with the other Director Generals the Director General for Legal Affairs has a seat in the executive body of the Ministry.

According to the internal regulations for the Ministry for Foreign Affairs the Director General for Legal Affairs is given a wide discretionary power to defer matters to the above-mentioned Departments in the Ministry. A Director and a Senior Legal Adviser at the International Law, Human Rights and Treaty Law Department have e.g. been authorized to act as agent for the Government before the European Court of Human Rights. A similar responsibility is entrusted with the head of the department for Community Law matter in cases before the European Court of Justice.

3. Organisation of the Departments under the supervision of the Director General for Legal Affairs

Some but not all of those working in the above mentioned Departments are lawyers, some of whom have postgraduate experience from private practice or from other branches of the Government. Some of them are part of the Diplomatic Service.

Sweden does not have any legal advisers posted overseas. However, traditionally functions within our larger Representations (i.a. New York, Geneva and Brussels) and some embassies, such as the one in the Hague, are staffed by officials with suitable legal background.

A Deputy Director General heads each of the above-mentioned Legal Secretariats and Departments. His or her deputy holds the rank of Director. In several of the Departments there are more than one Director. Advisers holding the ranks in descending order of Deputy Director and Desk Officer supplement them.

4. Place within the Ministry for Foreign Affairs

The Director General for Legal Affairs is a central officer of the Ministry for Foreign Affairs and he is the one within the Ministry who, with the assistance of the Departments under his/her supervision provides legal advice to the Ministry, and he/she will be consulted or will offer advice on all issues in which legal points may arise.

5. Main contacts within Government

In Sweden there is no Government Legal Service and the Director General for Legal Affairs and his advisers in the Departments under his/her supervision can be seen as the main centre of expertise on public international law within Government, and will be consulted regularly by other branches of Government when they deal with international law issues.

6. Relations with lawyers in private practice, academics and legal institutions

Where the need arises e.g. in property disputes and controversies with locally employed staff abroad the Ministry sometimes retains lawyers from private practice on an ad hoc basis.

Particularly the lawyers working at the International Law and Human Rights Department maintain a regular contact with the universities in Sweden and participate in conferences and meetings of learned societies (such as the International Law Association and the International Association of Penal Law). They are also encouraged to give lectures in meetings arranged regularly by the Ministry with "academia". Even in a multilateral setting such as strengthening the International Criminal Court lawyers from the Ministry have taken an active part.

TURKEY

1. Title, Rank and Position of the Legal Adviser

Title : First Legal Advisor
 Rank : Director General
 Position: The First Legal Advisor is the Head of the Legal Department (LD) within the Ministry of Foreign Affairs (MFA).

2. Principal Functions

According to article 12 of the Law No.4009, which regulates the organization and functions of the MFA, the functions of the LD are as follows:

- a) To provide legal advice to the other departments of the MFA concerning the ratification, implementation, revision/modification and termination of treaties or any other international legal instrument; to follow and evaluate the developments in the field of international law.
- b) To provide legal advice to the other departments of the MFA on any legal issue concerning international law, constitutional law and domestic law (including administrative law, civil law, labor law, contractual law, foundations law, etc.)
- c) To take prior legal measures aimed at protecting the interests of MFA or preventing any legal dispute as well as assisting in conclusion of treaties or agreements on such basis.
- d) To prepare the case files of administrative and judicial proceedings, as well as acting as counsel on behalf of the MFA in any proceeding before administrative courts commenced by its employees or any other litigants against the MFA.
- e) To evaluate and give legal opinion on bills and draft statutory regulations prepared by other departments of the MFA or other Ministries or governmental bodies.

3. Staff

There are currently 15 Legal Advisers working under the First Legal Adviser in the MFA.

There are also 13 legal advisers posted abroad, in Turkish Embassies/Missions.

4. Organization and Structure of the LD

The First Legal Adviser is responsible to the Under Secretary of the MFA.

Legal Advisers work under the authority of the First Legal Adviser and notwithstanding their different levels of seniority all Legal Advisers are considered equal in ranks.

The First Legal Adviser has the overall authority for administrative issues for the LD with the assistance of the relevant units of the MFA.

All Legal Advisers are responsible for various aspects of law and supported by the secretarial staff.

5. Place of the LD within the MFA

The LD is an advisory unit within the MFA. Other Departments of the MFA consult and where necessary request written legal opinion of the Legal Advisers.

Legal advisers work with a high degree of autonomy.

6. Main contacts of the LD within Government

Other Ministries or governmental bodies may seek legal advice of the LD of the MFA on international law issues.

As mentioned in 2 (a) above, the LD of the MFA is the main governmental unit in respect of ratification, revision/modification and termination of international treaties (with the exception of credit and loan agreements) as well as their implementation and interpretation.

7. Relations of the LD with lawyers in private practice, academics and legal institutions

The LD when it deems necessary may consult with and seek the advice of the lawyers in private practice, academics and legal institutions on certain legal issues.

Legal Advisers also attend the conferences and meetings organized by legal and governmental institutions.

Academics of high expertise on public international law may be appointed as the First Legal Adviser or Legal Adviser.

UNITED KINGDOM

1. Title, rank and position of the Legal Adviser

1. The office of the Legal Adviser to the Foreign Office (now called the Foreign and Commonwealth Office “FCO”) was first created in the second half of the Nineteenth Century. The Legal Adviser, who holds the rank of Director General within the FCO, is the head of “Legal Advisers”. All Legal Advisers are part of the Diplomatic Service, most remain as Legal Advisers throughout their FCO careers.

2. Principal functions

2. The principal function of FCO Legal Advisers is to provide legal advice to Ministers and officials within the FCO. This involves advice on matters of public international law, European Union law, human rights law, constitutional law, law relating to the British overseas territories, and domestic law (including for example freedom of information, data protection, employment, property, contractual matters). The Legal Advisers act as agent for the Government before international tribunals (including the International Court of Justice, the European Court of Human Rights and inter-State arbitrations), and frequently attend conferences and meetings both in the UK and abroad as head or members of the UK delegation.

3. Number of lawyers including overseas staff

3. There are currently about 25 lawyers working in FCO Legal Advisers in London. All are fully qualified to practice as lawyers within the UK, and some have post-qualification experience in private practice, in other Government Departments or in international institutions.

4. There are also a number of FCO legal advisers posted overseas, namely:

UK Mission to the UN in New York	2 lawyers
UK Mission to the UN in Geneva	1 lawyer
UK Permanent Representation to the EU (Brussels)	3 lawyers
British Embassy in The Hague	1 lawyer
British Embassy in Baghdad	1 lawyer

In addition a Legal Adviser from the FCO is seconded to the Legal Secretariat to the Law Officers (i.e. the Attorney General and the Solicitor General, who are the principal legal advisers to the Government). Postings are for three or four years and most Legal Advisers serve at least two postings in the course of their careers.

4. Organisation of the Legal Office

5. Legal Advisers in the FCO tend to work with a high degree of autonomy. Each Legal Adviser is assigned a number of “client” departments within the FCO, and those departments can request his or her advice whenever the need arises. Whilst there are some areas in which certain Legal Advisers may specialise, for example in EU law or human rights, all Legal Advisers are expected to be able to take on a variety of work spanning the breadth of the areas of law outlined above.

6. There are essentially four ranks within Legal Advisers: the Legal Adviser; three Deputy Legal Advisers; Legal Counsellors; and Assistant Legal Advisers.

7. In addition the number of Legal Advisers may be supplemented by the employment of consultants. Support to the Legal Advisers is available from a legal researcher, and from the secretarial, registry and Legal Library staff.

8. Management of the office is formally for the FCO administration, and in practice the responsibility of the Legal Adviser and the Deputy Legal Advisers, with support also from Legal Counsellors.

5. Place within the Ministry of Foreign Affairs

9. The Legal Advisers form a section of the FCO, whose head ranks as a Director General (i.e. reports directly to Ministers and the Permanent Under-Secretary). Legal Advisers form part of the Diplomatic Service. Assistant Legal Advisers are appointed at close to the top of the Delegated Grade structure of the FCO, equating to the rank of First Secretary. Legal Counsellors and Deputy Legal Advisers form part of the Senior Management Structure.

10. As has been said the principal function of Legal Advisers is to provide legal advice to the FCO, and they will be consulted or will offer their advice on all issues in which legal points arise.

11. FCO Legal Advisers also help in organising a week-long course on international law each year, for non-lawyer colleagues in the Diplomatic Service, as well as lecturing on other courses with a legal content within the FCO, e.g. human rights courses.

6. Main contacts within Government

12. As well as providing Departmental legal advice, the FCO Legal Advisers are the main centre of expertise on public international law within Government, and will be consulted by other Government Departments when they have international law issues. Thus for example all treaties which the UK enters into (with a few exceptions, such as a double taxation agreements) have to be approved by the FCO.

13. FCO Legal Advisers will act as agent on behalf of the Government in most international judicial proceedings (though not before the European Courts in Luxembourg). Thus the FCO Legal Advisers act as the agent in cases before the International Court of Justice and the European Court of Human Rights, as well as in international arbitration (for example the arbitration proceedings brought by Ireland in respect of the MOX Plant).

14. The Government's principal legal adviser is the Attorney General. Departmental lawyers seek his advice on matters of general importance for the Government as a whole. As noted above a member of FCO Legal Advisers is seconded to the Law Officers, to provide expertise on matters of international law.

15. FCO Legal Advisers are not part of the Government Legal Service, the organisation which provides legal advisers to other Government Departments. Nevertheless FCO Legal Advisers have close links with the Government Legal Service, and for example will organise training courses on issues of cross-Departmental interest such as the European Convention on Human Rights and international humanitarian law.

7. Relations with lawyers in private practice, academics and legal institutions

16. The FCO retains lawyers from private practice where the need arises. In litigation and arbitration it is usual to instruct specialist counsel for their advice and advocacy.

17. FCO Legal Advisers have traditionally been a part of what is an active "international law community" in the UK, comprising lawyers from the public service and private practice as well as academic lawyers. FCO Legal Advisers hold an Annual Academic Seminar on International Law at the FCO to discuss topical issues in international law and to which all those teaching international law at UK universities are invited. Legal Advisers are also encouraged to participate in conferences, meetings of learned societies (such as the International Law Association and the British Institute of International and Comparative Law) and to write articles or books for publication.

8. Other considerations

There is a considerable literature on the role of FCO Legal Advisers, including:

Sir Franklin Berman, "The Role of the International Lawyer in the Making of Foreign Policy", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL 2000)

Michael C. Wood, "The Role of Legal Advisers at Permanent Mission to the United Nations", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL 2000)

F.D. Berman, "The International Lawyer Inside and Outside Foreign Ministries" (in C.Hill and P. Beschoff (ed.s) *Two Worlds of International Relations – Academics, Practitioners and the Trade in Ideas*, Routledge, 1994)

Sir Arthur Watts, "International Law and International Relations: UK Practice" (1991) 2 EJIL 157-164

Sir Ian Sinclair, "The Practice of International Law: the Foreign and Commonwealth Office" (in Bin Cheng (ed.) *International Law Teaching and Practice*, Stevens, 1982).

Sir Gerald Fitzmaurice and Sir Francis Vallat "Sir (Williem) Eric Beckett, KCMG, QC (1896-1966) – An Appreciation" (1968) 17 ICLQ 267-326

Dr. Clive Parry "Background paper on National Organization and Procedures - United Kingdom" (in HCL Merrillat (ed.) *Legal Advisers and Foreign Affairs*, Oceana, 1964)

CANADA

1. What is the title, rank and position of the Legal Adviser?

The title of the Legal Adviser at Foreign Affairs Canada is Legal Adviser.

The rank of the Legal Adviser is equivalent to an Assistant Deputy Minister.

The position is occupied by a member of the Canadian public service and is not a political appointment.

2. What are the principal functions of the OLA?

The principal function of the Legal Bureau is to advise the Government of Canada on all matters of international legal interest to the country. This is done through consultation with other sections and divisions of the Ministry of Foreign Affairs, as well as with other government departments. In addition, staff of the Legal Bureau consult with members of the private sector and non-governmental organisation where pertinent.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

The staff employed by the Legal Bureau are public servants. They have, at a minimum, law degrees from recognized Canadian universities. They come from both the private and public sectors. Most of the staff of the legal bureau are members of the relevant provincial bar association. In addition, some member of the staff of the Legal Bureau are visiting academics.

4. Briefly describe the organisation and structure of the OLA.

The Legal Bureau consists of legal officers and administrative assistants working on files in six sections headed by a deputy director. These six sections are:

- JLAA - Criminal, Security and Privileges and Immunities Law Section;
- JLAB - Treaty Section;
- JLHA - UN, Human Rights & Humanitarian Law Section;
- JLHB - Economic Law Section;
- JLOA - Oceans Law Section; and
- JLOB - Environmental Law Section.

Each of the six deputy directors reports to a director in three divisions:

- JLA - Criminal, Security and Treaty Law Division;
- JLH - United Nations, Human Rights and Economic Law Division; and
- JLO - Oceans and Environmental Law Division.

Each of the three directors reports to the Deputy Legal Adviser and Director General who reports to the Legal Adviser.

5. What is the OLA's place within the Ministry of Foreign Affairs?

All bureaux in the Department of Foreign Affairs report to the Deputy Minister and the Minister. However, where the files upon which the various bureaux are working contain legal issues, the various bureaux must consult with the Legal Bureau before reporting to the Deputy Minister or Minister.

Also, the joint International Trade Law Bureau between International Trade Canada and Department of Justice and the Legal Services Section of the Department of Justice within Foreign Affairs Canada and International Trade Canada have a lateral relationship with the Legal Adviser of Foreign Affairs Canada and consult regularly on matters of international concern and matters that effect the legal operations of all three departments.

6. What are the main contacts of the OLA within Government?

The Legal Bureau consults with various divisions throughout the federal government, including the Department of Justice, the Department of National Defence, the Department of Fisheries and Oceans, Natural Resources Canada, Canadian Heritage, Canadian International Development Agency, Citizenship and Immigration Canada, Environment Canada, Health Canada, Transport Canada, Canada Border Services Agency, Canadian Nuclear Safety Commission, Canadian Space Agency and the Privy Council Office.

In addition, the Legal Bureau consults with the relative departments of the provincial and territorial governments regarding matters the fall within their jurisdiction or may have an impact upon them.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The Legal Bureau interacts with lawyers in private practice, academics and legal institutions on a daily basis. This includes addressing inquiries, working together on various projects and being members together in various organizations. Also, several members of the Legal Bureau's staff teach courses at the University of Ottawa and the Norman Paterson School of International Affairs at Carleton University, including the Legal Adviser. In addition, the Legal Bureau has a visiting academic on staff who retains that position for one to two years.

8. Please provide a brief bibliography on the OLA, if available.

J.A. Beesley, "The Sixties to the Seventies: The Perspective of the Legal Adviser" in R. St. John Macdonald ed., *Canadian Perspectives on International Law and Organization*, Toronto 1974.

M. Cadieux & M. Cohen, "The Position and Function of Legal Advisers to Foreign Ministries", background paper for Conference on Legal Advisors and Foreign Affairs, Summer 1963.

A.E. Gotlieb, "Legal Advisers and Foreign Affairs 'A comment'" (1965) 16 *University of Toronto Law Journal* 158.

APPENDIX/ANNEXE**QUESTIONNAIRE ON THE ORGANISATION AND FUNCTIONS OF THE OFFICE OF THE
LEGAL ADVISER (OLA) OF THE MINISTRY OF FOREIGN AFFAIRS**

1. What is the title, rank and position of the Legal Adviser?
2. What are the principal functions of the OLA?
3. Please give a brief description of staff employed by the OLA, including overseas staff.
4. Briefly describe the organisation and structure of the OLA.
5. What is the OLA's place within the Ministry of Foreign Affairs?
6. What are the main contacts of the OLA within Government?
7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.
8. Please provide a brief bibliography on the OLA, if available.