

**COMMENTS OF THE
COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)
ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1888 (2009) "TOWARDS A NEW
OCEAN GOVERNANCE"**

1. On 21 October 2009, the Ministers' Deputies communicated Parliamentary Assembly Recommendation 1888 (2009) to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments by 31 March 2010.

2. In its Recommendation, the Parliamentary Assembly called on the Committee of Ministers to:

- instruct a committee of experts to define a legal and institutional framework for new ocean governance;
- invite the Parliamentary Assembly to take part in the work of the committee of experts.

The Assembly also recommended that the Committee of Ministers call on governments of member States to:

- take part in the EurOcean intergovernmental project;
- promote the establishment and proper management of marine protected areas.

3. The CAHDI examined the above-mentioned Recommendation at its 39th meeting (Strasbourg, 18-19 March 2010) and adopted the following comments concerning aspects of the recommendation which are of particular relevance to the mandate of the CAHDI (public international law).

4. From the outset, the CAHDI would like to underline the importance of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS), which provides the regulatory framework for use of the world's seas and oceans and is the key legal reference in this field. 160 States or entities are parties to UNCLOS¹, of which 42 are Council of Europe members. Also large parts of UNCLOS reflect customary law. The CAHDI considers that UNCLOS is the comprehensive legal and institutional framework for oceans governance, and does not see the need to establish a new framework. The CAHDI recommends to the Deputies to call on Council of Europe member States which have not yet done so to ratify or to accede this instrument at their earliest convenience.

5. The CAHDI considers that – as before – the United Nations remains the most appropriate institution for discussing oceans governance, given the global reach of the law of the sea.

6. In this respect, the CAHDI also recalls the importance of the peaceful settlement of disputes in the field of the law of the sea, including as provided for in UNCLOS. In this respect States may use the opportunity provided under UNCLOS to nominate suitably qualified people to lists of arbitrators and to update such lists on a regular basis. In this regard, the CAHDI would like to recall its contribution to the Committee of Ministers' adoption of Recommendation CM/Rec(2008)9 to member states on the nomination of international arbitrators and conciliators.

¹ Status as at 4th February 2010. See link below for full details:
http://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=IND&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&lang=en

7. The CADHI considers that the Arctic is not a new region, nor is it currently intensively exploited. Also in this region UNCLOS constitutes the existing legal framework for oceans governance.

8. Finally, in the course of its work, the CAHDI has also taken note of relevant recent cases brought before international courts, including the European Court of Human Rights, concerning directly or indirectly the law of the sea. The CAHDI follows on a regular basis the development of case law in this field.

9. The CAHDI advises the Committee of Ministers that there is no need to establish a committee of experts to attempt to define a legal and institutional framework for oceans governance as requested, as it considers the current legal framework to be sufficient.