Chapter 2
Regional Integration in the Framework of the Entire Post-Soviet Area

5 Emergence of the CIS

5.1 Prelude (the Collapse of the Soviet Union)

The Soviet experiment, which begun following the October revolution in 1917 and led to the creation of the USSR on the basis of the Union Treaty on December 30, 1922,[49] had ended in failure. Although the USSR was conceived as a federal state[50] and had even some attributes of confederation,[51] Stalin, the chief architect of the Soviet system, perceived that the USSR could only be kept together by a strong central hand that was willing to use coercion.

Attempts at democratization under Khrushchev began a slow unraveling of the empire. However, the real breakup was triggered off only by Gorbachev's programs of perestroika and glasnost, who tried thus to pursue both the economic and political liberalization simultaneously. First, as the socialist alternative to the market economy turned out to be an illusion, the planned, highly centralized command economy was to be replaced by the progressive introduction of elements of a market economy (perestroika).

---

[49] The text of the Treaty of 1922 was incorporated into the Constitution of the USSR of 1924. For a full English translation of the latter, see, e.g. Triska, Constitutions of the Communist Party States 17–28 (1968).

[50] The constituent republics establishing the USSR were four socialist republics established following the 1917 Revolution on the territory of the former Russian empire: the Russian and Transcaucasian Soviet Federated Socialist Republics and the Ukrainian and Byelorussian SSR. Additional union republics were set up in subsequent years: the Turkmen and Uzbek SSR's in 1924, the Tajik SSR in 1929, and the Kazakh and Kyrgyz SSR's in 1936. In that year the Transcaucasian Republic was abolished and its territory was divided between three new republics: the Armenian, Azerbaijan, and Georgian SSR's. In 1940 the Karelo-Finnish, Moldavian, Estonian, Latvian, and Lithuanian SSR's were established. In 1956 the Karelo-Finnish SSR became an autonomous republic inside Russia, leaving a total of 15 union republics.

[51] For example, every union republic retained the "right of free exit" from the Union which was also provided by the subsequent constitutions of the USSR (1936 and 1977) and existed thus to the very end of the USSR. See, e.g. Schweisfurth, *Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS): Juristische Stationen eines Staatszerfalls und einer Staatenbundentstehung,* 52 HJIL 541 (1992).

Second, the political reforms were initiated aiming to replace the communist system with a democratic one (glasnost). But perestroika proved itself to be too difficult to achieve and was accompanied by declining production in many sectors and increasing distribution problems. At the same time, glasnost led to the conflicts developed between the parliament of the USSR and those of the individual republics, mainly over the respective powers of the centre and the republics. In addition, these enormous problems were even more exacerbated by the resurgence of ethnic nationalism and increasing demands for autonomy and even for full independence.

Attempts were made to establish a new "Union of Sovereign States" with high degree of integration in foreign policy, defense, and economic affairs which aimed to preserve "the sovereign state, subject of international law",[52] but following the attempted coup of August 1991 the republics rushed to be free of Moscow's control before another coup succeeded. The three Baltic republics successfully seceded from the union and were followed by many others. The key republic was Ukraine, politically and economically number two in the Soviet Union which voted for independence on December 1, 1991. Thus, by December 1991 the USSR had virtually ceased to exist, and the future of its territories and peoples was highly uncertain.

5.2 Establishing Acts of the CIS

5.2.1 Minsk Agreement

The process of the disintegration of the USSR culminated on December 8, 1991, in the signing of the Minsk (called also Belovezh) Agreement by the heads of state of Russia, Belarus, and Ukraine.

The Minsk Agreement laid down two fundamental decisions. *First,* it concluded that "the USSR has ceased to exist as a subject of international law and a geopolitical reality"[53] and that "the activities of the organs of the former USSR are discontinued on the territories of the member states of the Commonwealth".[54] *Second,* the Agreement formally established the Commonwealth of Independent States (CIS) that comprised the three above states and was open for all member states of the former USSR to join as well as for all other states which would share the purposes and principles of the founding agreement.[55]

---

[52] See, e.g. Russel, *Improbable Unions: The Draft Union Treaties in the USSR 1990–1991,* 22 Review of Central and East European Law 389 (1996).

[53] Agreement Establishing the Commonwealth of Independent States [hereinafter Minsk Agreement] (Dec. 8, 1991), at Preamble.

[54] Ibid, Art. 14 (2).

[55] Ibid, Art. 13.

The Minsk Agreement recognized the sovereignty and equality of each former Soviet republic.[56] The contracting parties also pledged themselves to govern their relations by generally recognized principles and norms of international law such as sovereign equality of states, non-intervention in the affairs of other states, the duty to refrain from the threat or use of force in international relations, settlement of international disputes by peaceful means, protection of human rights and self-determination of peoples as well as other principles and norms set forth in the UN Charter, the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe (CSCE).[57] Besides, the contracting parties clearly stated that they would guarantee the fulfillment of the international obligations binding upon them from the treaties and agreements of the former USSR.[58]

Although the creation of the CIS signaled the dissolution of the Soviet Union, the Agreement explicitly stated that the CIS is based on the historic community of the member states' peoples and the ties which have been established between them.[59] The CIS was also supposed to assume "through common coordinating institutions of the Commonwealth" the following functions:

> (a) coordination of foreign policy; (b) cooperation in forming and developing a common economic space, common European and Eurasian markets; (c) cooperation in the sphere of customs and migration policy; (d) cooperation to develop transport and communications systems; (e) cooperation in the sphere of environmental protection, participation in creating of the all-encompassing international system of ecological security; and (d) the fight against organized crime.[60]

Moreover, the member states agreed to preserve and maintain under united command a common military-strategic space, including unified control over nuclear weapons.[61] Further, while the contracting parties recognized one another's territorial integrity and the inviolability of existing borders within the Commonwealth, they also guaranteed openness of borders, freedom of movement for citizens and of transmission of information within the CIS.[62] In addition, the Agreement concluded that the development and strengthening of relations of friendship, good-neighborliness and mutually beneficial co-operation between the member states correspond to the vital national interests of their peoples and serve the cause of peace and security.[63]

However, what the Minsk Agreement did not express was the former Soviet republics' fundamentally divergent perceptions concerning the future evolution

---

[56] Ibid.

[57] Ibid, at Preamble.

[58] Ibid, Art. 12.

[59] Ibid, at Preamble.

[60] Ibid, Art. 7.

[61] Ibid, Art. 6.

[62] Ibid, Art. 5.

[63] Ibid.

and role of the CIS ranging from a confederative union to a loose non-institutionalized association.[64]

Furthermore, from a technical legal point of view, the Minsk Agreement was far from perfect. Its text was drafted very hastily and political considerations of its signatories obviously prevailed over the legal correctness and accuracy of the document.[65] *First,* it should be mentioned that the text of the Agreement does not contain any provision on its entering into force.[66] *Second,* Article 11 of the Agreement states that: "From the moment of signature of the present Agreement, application of the laws of third States, including the former Union of Soviet Socialist Republics, shall not be permitted in the territories of the signatory States". This provision created in effect two political entities in the same area since other republics still considered themselves members of the union. Moreover, a practical application of this rule with regard to the laws of the Soviet Union (even admitting hypothetically that it could be considered "the former" from the moment of signature) would inevitably uncover many lacunae in the legal systems of the newly emerged independent subjects of international law, and would in many ways hinder and disrupt their normal functioning as sovereign states.[67] *Third,* from the legal viewpoint it is evident, that three of the remaining 12 republics of the USSR, even though they were the founding and most powerful members, could only withdraw from the USSR and set up a new association but they were not entitled to dissolve the Union.[68]

---

[64] In addition to the fact that Russian President Yeltsin saw in the dissolution of the USSR a convenient vehicle for the removal of Gorbachev from the post of president of the Soviet Union, he also thought of the CIS as a new type of union, formed to rescue Soviet integration as the Soviet state was falling apart, leading in a few years to a confederal arrangement, similar to the European Union. Belarusian leader Shushkevich regarded the CIS as a vehicle through which Belarus could raise its profile by becoming the new "headquarters" of the CIS. In Ukrainian President Kravchuk's view, however, the CIS was a transient arrangement required to ease the transition from Union to independence. He envisioned a loosening of ties over time, as states strengthened their own economies, not the reverse process. See Brzezinski & Sullivan, Russia and the Commonwealth of Independent States. Documents, Data, And Analysis 41–42 (1997).

[65] Russian Secretary of State Burbulis told that "We came to Minsk without a text and without any carefully weighed idea of a commonwealth. It was born right there". See The New York Times (11.12.1991).

[66] This omission was subsequently filled by the Protocol of December 21, 1991, see *infra* in subcharter 5.2.2.

[67] The subsequent practice of the CIS states did not follow this provision. See Voitovich, *The Commonwealth of Independent States: An Emerging Institutional Model,* 4 EJIL 403 (1993); Zvekov, *Nekotorye Pravovye Voprosy Khozyistvennogo Sotrudnichestva v Ramkakh SNG,* Rossiiskii Ežegodnik Meždunarodnogo Prava 206 (1992).

[68] On December 10, 1991 Gorbachev made a statement rejecting the right of the leaders of Russia, Ukraine and Byelorussia to dissolve the Soviet Union and saying that "…the fate of our multinational country…can only be resolved through constitutional means with the participation of all sovereign states and taking into account the will of their peoples". Further he advocated holding a nationwide referendum on this question. See The New York Times (11.12.1991). However, Gorbachev lost his belated campaign to block the creation of the CIS and the dissolution of the USSR as the idea gained ground with additional republics.

Thus, by declaring the non-existence of the USSR as a subject of international law without the formal consent of the other nine republics, the above three states have clearly exceeded their powers.[69] However, within a week after the signing of the Minsk Agreement the leaders of the other republics, after being assured the status of "high contracting parties" (or co-founders), expressed their willingness to join the new Commonwealth and the legal deficiencies of the Minsk agreement could be smoothed out by the subsequent Alma-Ata arrangements.

5.2.2 Alma-Ata Arrangements

The Alma-Ata summit of December, 21 1991 was another crucial point in the transition from the USSR to the CIS. In Alma-Ata the three original signatories were joined by all other newly-independent states of the former Soviet Union, apart from Georgia[70]: Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.

The leaders of these 11 states confirmed and developed further the Minsk Agreement by signing the Protocol to the Agreement Establishing the CIS which formed the initial legal basis for the operations of the new regional organization. The Protocol emphasized that "the contracting parties create the Commonwealth on the principle of sovereign equality" which is to be interpreted that all of them are considered to be co-founders. Thus, this document is to be evaluated not as the accession of the other republics to the organization of the three initial founders but as the re-establishment of the CIS in a new format. Further, the Protocol was proclaimed to be a constitutive integral part of the Minsk Agreement and was to enter into force for each of the parties from the moment of its ratification.

However, the key document of the summit was undoubtedly the Alma-Ata Declaration which was unanimously adopted by all 11 former Soviet republics and

---

[69] It should be also noted that a number of international lawyers does not consider the Minsk Agreement as an international treaty arguing that union republics being parts of a federative state could not conclude international treaties. For example, Chernichenko believed that "the members of a federation may conclude treaties with each other but these treaties are subject to regulation by the domestic law of the federation and not governed by the international law". See Chernichenko, *Gosudarstvo kak Lichnost', Subyekt Mežđunarodnogo Prava, i Nositel Suvereniteta,* Rossiiskii Ežegodnik Mežđunarodnogo Prava 29 (1993–94). Another Russian scholar Kremnev noted that "during the period from 8th to 21st of December 1991, the CIS by its nature represented an inter-republican formation in the framework of the still existing federation; the legal status of an international organization had still to be acquired". Kremnev, *Obrazovanie i Prekraščenie SSSR kak Subyekta Mežđunarodnogo Prava,* Vestnik Moskovskogo Universiteta 83 (No. 5, 2000).

[70] Georgia's initial non-participation in this process did not essentially alter the dissolution of the USSR, since a union presumes at least two members. When Georgia joined in March 1994, all of the former republics of the USSR, except the Baltic States, had become members of the CIS.

contains several important provisions. *First,* the Declaration stated – this time more appropriately – that "with the establishment of the Commonwealth of Independent States, the Union of Soviet Socialist Republics ceases to exist".[71] In this joint declaration, the leaders of the former Soviet republics set forth their intent to "build democratic states ruled by law and to develop relations between them on the basis of mutual recognition of inalienable right to self-determination, equality, non-interference in each other's internal affairs, renunciation of the use of force or threat to use force, economic or other levers of pressure". *Second,* it definitely stated that the Commonwealth "is neither a state nor a supranational entity". It declared further that "cooperation between the parties in the Commonwealth shall be conducted in accordance with the principle of equality through coordinating bodies constituted on a basis of parity and operating under a procedure to be determined by agreements between the parties in the Commonwealth" thus leaving no room for any "weighted" representation or voting within the CIS. *Third,* the CIS is open to accession by other states "with the consent of all its participants"; hence the openness of the Commonwealth to other states (both members and non-members of the former Soviet Union) sharing its purposes and principles is combined with a consensus rule which is typical for associations of limited membership. *Fourth,* the parties of the CIS pledged themselves to respect one another's aspiration to attain the status of a non-nuclear zone and a neutral state. *Fifth,* the parties reiterated their "devotion to cooperate in the formation and development of the single economic space, the common European and Eurasian markets". *Finally,* the Alma-Ata Declaration confirmed the earlier statements of the three states to discharge, in accordance with their constitutional procedures, the international obligations deriving from treaties and agreements concluded by the former USSR.

Thus, on the basis of two additional establishing documents of the CIS (the Protocol to the Agreement Establishing the CIS and the Alma-Ata Declaration of December 21, 1991) 11 former republics of the Soviet Union formally put an end to the existence of the USSR and constituted the Commonwealth of Independent States. In this regard, Schweisfurth has noted that "the extinction of the USSR took place in the form of a dismemberment. This dismemberment was not yet complete at Minsk on December 8, 1991, but it was completed by the Declaration of Alma-Ata of December 21, 1991; this is the date of the final termination of the USSR. The Declaration of Alma-Ata has to be regarded as the *contrarius actus* by which the Treaty on the establishment of the USSR of 1922 was invalidated".[72]

---

[71] It is not accidental that a few days later on December 25, 1991 Gorbachev resigned as Soviet president. The last legal 'i' was dotted on December 26 when a shrunken Soviet Parliament passed its final resolution acknowledging the dissolution of the Soviet Union and ending its own existence. On December 31, 1991 all residual functions of the first communist state ceased: the USSR no longer existed.

[72] See Schweisfurth, *Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS)*, *supra* at 700 (1992).

Some other scholars have still argued that a referendum procedure would have been legally more preferable, especially in the view of the fact that less than a year before, in March 1991, an all-Union referendum had supported the maintenance of the USSR.[73] Nonetheless, the political decision of the leaders of 11 member states of the USSR was implicitly supported and was subsequently recognized by the international community.[74]

5.3 CIS Charter

Although the CIS founders dedicated to reversing their slide toward economic and political chaos and even military conflicts on the Yugoslav scenario, the establishing acts of the Commonwealth left unsettled such important matters as how to create an acceptable system to maintain the still existing common economic space and to administer common military policy and nuclear weapons control. The legal status of the CIS and the precise scope of its coordinating institutions as almost every other difficult concrete issues were left to be decided later.[75]

Despite the proliferation of pro-cooperation rhetoric that accompanied the foundation of the CIS, the process of building a viable organization was in fact not forthcoming on many issues.[76] From the very moment of the CIS' creation, prospects for the cooperation among its member states were hampered by the unwillingness of the former Soviet republics to diminish their newly won sovereignty in any way.[77] Moreover, significant political forces in many post-soviet countries openly questioned the expediency of the Commonwealth.[78] Accordingly, the CIS structure

---

[73] See, e.g. Kremnev, *Obrazovanie i Prekračšenie SSSR kak Subyekta Meždunarodnogo Prava, supra*. The referendum was held in 9 union republics (all except for Armenia, Georgia, Moldova and three Baltic republics). Totally, 75, 4% of citizens eligible to vote (147 million) participated; 76, 2% voted "yes" for the Union. See Sakwa, Russian Politics and Society 23 (2002).

[74] This recognition was confirmed officially by the admission of the former Soviet Republics to the CSCE and the UN, as well as by the recognition of Russia's succession to the USSR as a member of the UN, including permanent membership of the Security Council. See, e.g. Blum, *Russia Takes over the Soviet Union's Seat at the United Nations,* 3 EJIL 354 (1992).

[75] As it was rightly wrote by Voitovich, "the initial stage of the CIS formation provides reason to suppose that the newly independent states of the former USSR shared no long-term plan and were therefore obliged to choose a cautious step by step approach" to come to new terms in relations with each other. See Voitovich, *The Commonwealth of Independent States, supra* at 406.

[76] On more details, see, e.g. Seiffert, *Von der Sowjetunion (UdSSR) zur Gemeinschaft der Unabhängigen Staaten,* 38 Osteuropa Recht 79 (1992), Göckeritz, *Die vertraglichen Grundlagen der Gemeinschaft der Unabhängigen Staaten,* 38 Recht in Ost und West 117 (1994–1995).

[77] As the Belarus Prime Minister Kebich noted: "Some leaders are afraid even to use words like 'union' or 'process of integration'. Apparently they're wary of getting an organ which will crush the republics again". See The New York Times (01.01.1992).

[78] Thus, the President of Azerbaijan Elchibey said that he did not consider Azerbaijan a CIS member (Alma-Ata arrangements were signed on behalf of Azerbaijan by his predecessor Mutalibov), nor did it intend to become one. See Voitovich, *The Commonwealth of Independent States, supra* at 406.

was slow in coming and it was evident that the Commonwealth in its current shape was equipped neither to effectively regulate the relations between the post-Soviet states nor to mediate in their bilateral disputes (as, e.g. in the case of a diplomatic battle between Ukraine and Russia over the fate of the Black Sea naval fleet during 1992). In addition, many of the newly independent states manifestly gave preference to solve their substantial problems to bilateral treaties,[79] while others favored plans of the establishment of more compact sub-regional unions, such as the Central Asian Economic Community,[80] or even put hopes in the prospect of aligning themselves with the neighboring regions outside the former Soviet Union.[81]

In the meantime, however, the ties between Russia and other post-Soviet republics proved stronger than any outward attraction and the exigency of economic survival confronting all CIS countries urged them to make new efforts to improve their newly established organization by moving from the simple bilateral forms of consultation and cooperation to a more elaborate institutional model.[82] It was obvious that the CIS' ineffectiveness in bringing pressure to bear on difficult multi- and bilateral issues was due not only to the divergence of interests of its member governments, but also to its lack of procedural guidelines for dealing with such problems. Accordingly, the CIS countries undertook attempts to gradually endow their organization with its own institutional structure and functions. Almost immediately, institutional framework for the regular meetings of heads of state, heads of government, foreign and defense ministers was established.[83] These meetings and those of additional functional groupings (ranging from intelligence to health care councils), produced a steady flow of agreements on the solution of mutual problems and the creation of still more coordinating mechanisms.

Nevertheless, by May of 1992,[84] it was evident that along with the establishing documents of the CIS adopted in December 1991, the Commonwealth urgently needed its

---

[79] Accordingly, the growth and development of the CIS as a regional organization from the moment of its establishment has been accompanied by the adoption of numerous bilateral agreements which created different levels of integration and consequently an asymmetry in the balance of obligations between the CIS countries.

[80] Discussed *infra* in subchapter 17.2.1.

[81] For example, in 1992, six post-Soviet republics Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan along with Afghanistan joined the Economic Cooperation Organization, an intergovernmental regional organization established in 1985 by Iran, Pakistan and Turkey for the purpose of promoting mutual economic, technical and cultural cooperation.

[82] For instance, Shushkevich stated in February 1992 that "…the Commonwealth of Independent States is the structure without which we will never survive". See The New York Times (16.02.1992). Even Kravchuk said that Ukraine would not be better off outside the CIS, conceding that "the Commonwealth is imperfect, but it serves as a platform to discuss and resolve the most difficult problems". See ITAR-TASS (26.04.1992).

[83] On the CIS institutional framework, see *infra* in subchapter 8.

[84] The decision to elaborate a draft of the CIS Charter was adopted during the Tashkent summit of the Council of Heads of States on May 15, 1992. On the drafting history of the Charter, see Fissenko & Fissenko, *The Charter of Cooperation,* 4 Finnish Yearbook of International Law 230 (1993).

own constituent treaty which would be the legal basis of its operation and contain – in a substantive, not just a formal sense, the organization's constitution. In addition to rules prescribing the structure of the organization, the Commonwealth's constitution had at least to provide for the organization's institutional framework as well as the rights and duties of member states. Moreover, the constituent treaty had to lay down not only the objects and purposes of the organization, but also the means to be used and in general terms the powers of the Commonwealth's organs to achieve them.

The aspirations of active supporters of the Commonwealth (Belarus, Kazakhstan and Russia) were in many regards connected with the CIS Minsk summit of January 22, 1993. On this summit, the presidents of the CIS countries, "proceeding from the historic community of their peoples" and "aspiring to enhance the efficiency of the Commonwealth cooperation",[85] adopted the CIS Charter – the document, which supplemented the establishing acts of the Commonwealth, clarified and developed the formal structures of the CIS and constituted the legal foundation of the performance of the Commonwealth's activities.

Structurally, the CIS Charter consists of 45 articles grouped into 9 chapters. First chapter deals with the "Purposes and Principles", the second with "Membership", the third regulates "Collective Security and Military-Political Cooperation", the fourth "Prevention of Conflicts and Settlement of Disputes", the fifth chapter is devoted to "Cooperation in Social, Economic and Legal Fields", the sixth to the "Organs of the Commonwealth" dealing with the institutional framework of the organization, the seventh to the "Interparliamentary Cooperation", the eighth to "Financing" and finally the ninth chapter to the "Final Provisions". Thus, just looking at the structure of the document, it is clear that the CIS Charter envisioned a multipurpose regional organization based on the fairly close cooperation of its members not only in the economic, humanitarian, social, and cultural spheres but also in the political and military areas.

However, the expectations of the CIS's adherents materialized only partly. Even though the CIS Charter stressed that "the Commonwealth shall be based on sovereign equality of its member states" which "shall build their relations in accordance with the universally recognized principles and norms of international law",[86] and provided for the possibility of the multi-speed and multi-option integration allowing its members to choose independently the level and pace of their involvement into the established CIS structures,[87] the CIS Charter was initially signed by the presidents

[85] CIS Charter (Jan. 22, 1993), at Preamble. In this regard, Pechota pointed out that "the West European example of economic and political integration has influenced the concept underlying the Charter…, for the Charter recalls "the historic community of their peoples" (in the Preamble) and their "spiritual unity" (Art. 3) to justify the expansion of the international processes". See Pechota, *The Commonwealth of Independent States: A Legal Profile,* 2 PARKER SCH. J. E. EUR. L. 593 (1995).

[86] CIS Charter (Jan. 22, 1993), Art. 1 and 3.

[87] CIS Charter expressly allowed for the possibility of associate membership in the CIS (Art. 8). Furthermore, the member states could declare very extensive reservations to the Charter (Art. 43, for more details see subchapter 10.2.).

of only seven states: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan and met significant opposition from others.[88]

Although, Azerbaijan (September 24, 1993), Georgia (December 9, 1993) and Moldova (April 15, 1994) followed later and subsequently ratified the CIS Charter, such countries as Turkmenistan, adhering to its policy of absolute neutrality, and most importantly Ukraine, where nationalist mistrust of the Commonwealth was greatest, never signed nor ratified the Commonwealth' Charter because of conflicting national interests and fear of domination by Russia.

6 Legal Status of the CIS

6.1 Generally

In contrast to sovereign states, which are characterized by unlimited legal personality, the legal personality of international organizations exists only within the limits of their objectives and functions since it is defined not by general international law but on the basis of the constituent treaty of a particular international organization.

Although the legal personality is generally considered to be the most important constitutive element of any international organization, it should be noted that neither the establishing acts nor the Charter of the CIS contain any explicit provisions as to the legal status of the Commonwealth. The only provision provided both by the establishing acts and the CIS Charter is that the Commonwealth (in Russian "sodruzhestvo") is "neither a state nor a supranational organization".[89] However, as rightly noted by Ignatenko, the proper evaluation of the legal status of the CIS may not be done "by a mere negation and must be manifested in a positive decision".[90]

On the other hand, this lack of the positive decision was an inevitable consequence produced by absolutely various views of the post-soviet states with respect to the legal status of the CIS.[91] In this context, it should be noted that the Russian word "sodruzhestvo" can mean either a community or a commonwealth. Thus, the very

---

[88] For example, Moldovan President Snegur told that "from day to day, from one meeting of Heads of State to another, the desire of the leaders of certain States to return to the organization of the former USSR is becoming more and more apparent…Moldova cannot have anything in common with such theories and will not sign the Commonwealth Charter". See BBC Summary of World Broadcasting. Part 1. Former USSR. SU/1570 B13 (22.12.1992). The President of Ukraine Kravchuk also strongly opposed the CIS Charter and characterized it as "a means of recasting the CIS as a new union on territory once belonging to the USSR". See The Ukrainian Weekly, No. 2, Vol. LXI (10.01.1993).

[89] See Alma-Ata Declaration (Dec. 21, 1991) and the CIS Charter (Jan. 22, 1993), Art. 1.

[90] See Ignatenko, Mežđunarodnoe Pravo 346 (1999).

[91] See, e.g. *supra* note 64.

name of the CIS allowed a wide leeway in legal interpretation prompting some scholars to propose the idea of the "uniqueness" of the CIS.[92]

Generally, the period of the foundation and early evolution of the CIS has seen the confrontation of two absolutely different approaches to its legal status. *First,* the CIS was viewed as a loose and merely consultative forum, a sort of "presidents' club" without any international legal personality and as a direct opposite to the strongly centralized former Soviet Union. *Second,* the CIS was desired by its supporters to be a strong decision-making entity in the form of an effective international organization or even a confederation having supranational features and resembling thus the today's European Union.

6.2 Is the CIS Merely a "President's Club"?

6.2.1 An Informal Grouping?

The newly emerged independent states of the CIS were mindful of the experience of the Soviet Union central authorities, and were quite reluctant to create any powerful institutions which could threaten their newfound sovereignty.[93] At least a part of them has desired the CIS from the very beginning to be a merely coordinating interstate association without any substantial powers and lacking any explicit provisions on the treaty-making competence as well as on the privileges and immunities, which are direct indicators of an international legal personality.

In this context, it should be noted that in international relations there are informal groupings of states like G8 or G90 which serve as international forums for the respective participating governments bringing them together to discuss various issues of mutual or global concern. However, in difference to IGOs, these groupings lack any institutional structures. For example, the G8 does not have even a permanent secretariat. The presidency of the group rotates annually among the member countries and the country holding the presidency is responsible for planning and hosting a series of ministerial-level meetings, leading up to a mid-year summit attended by the heads of state and government.

In this regard, there are all reasons to assume that at least countries like Moldova, Turkmenistan and Ukraine considered, from the very beginning, the CIS only as

---

[92] Bličšenko wrote that the CIS is "a new international association of transitional character, unknown both to the science and practice, which can be defined as an international organization *sui generis*". See Bličšenko, *Meždunarodno-Pravovye Problemy Gosudarstv Vkhodyačšikh v SNG,* Rossiiskii Ežegodnik Meždunarodnogo Prava 275 (1996–97). Pechota labeled the CIS, at the very beginning of its existence, as a "nondescript entity". See Pechota, *The Commonwealth of Independent States, supra* at 595.

[93] Thus, one of the founding fathers of the CIS, President Kravchuk repeatedly stressed that the Commonwealth's interests are secondary to Ukrainian independence and told that: "It's the Commonwealth of *Independent* States [stressing independence], decisions interfering in internal policies are not accepted by us". See The New York Times (31.12.1991).

a mechanism which would facilitate a "civilized divorce" and were willing to create on its basis merely a kind of informal grouping for discussions of matters of mutual interest.[94] Thereupon, it is interesting to quote Kux who wrote in 1992 that: "At the outset, the Commonwealth was designed as a loose confederation, i.e. a league or political union of formally independent states which retain exclusive jurisdiction, but coordinate foreign, defense, and macro-economic policies and delegate limited powers to joint authorities".[95] [But] "for the time being, the CIS provides an informal framework for an association of states built on a series of bilateral or multilateral agreements and a multitude of ad hoc committees and joint institutions with changing membership".[96]

6.2.2 A Loose Association?

As an acceptable alternative to an informal grouping, some post-Soviet countries also considered another version of a "president's club" modeled after a loose association of sovereign states born as the result of the decentralization and eventual disintegration of the British Empire.

As it is generally known, the Commonwealth of Nations, which comprises the United Kingdom and a number of its former dependencies who have chosen to maintain ties of friendship and practical cooperation and who acknowledge the British monarch as symbolic head of their association, has often been likened to a gentlemen's club.

Would the CIS follow the model the Commonwealth of Nations, the member states of the CIS could retain full authority in all domestic and foreign affairs and have no legal or formal obligation to one another, although Russia (similarly to Britain in the Commonwealth of Nations) would generally enjoy a traditional position of leadership in certain matters of mutual interest. Additional attractive aspects

---

[94] For example, the president of Moldova Snegur considered that "the CIS should become merely a collective coordinating body". See BBC Summary of World Broadcasting. SU/1570 B13 (22.12.1992). The similar opinion was expressed by the president of Turkmenistan Niyazov who said that "Turkmenistan is interested in the CIS only as a consultative body". See BBC Summary of World Broadcasting. SU/1572 B9 (24.12.1992). Ukraine's President Kravchuk said that his principal task as president is "to strengthen the legal foundations of his independent state as an object of international law and not to allow the Commonwealth of Independent States to be transformed into some kind of entity with its own organs of power and authority". See The Ukrainian Weekly, No. 4, Vol. LXI (24.01.1993).

[95] Kux, *Confederalism and Stability in the Commonwealth of Independent States,* 1 New Europe Law Review 397 (1992).

[96] Ibid, at 415–416. Further, Kux, characterizing the CIS as an informal framework, still suggested that for the CIS [in the context of security and stability] only "a loose form of federalism could provide a viable, innovative, ordering framework for stabilizing relations among the break away republics, wide enough to preserve the national sovereignty of the new states, narrow enough to preserve peace among and within them". Ibid, at 419.

for the opponents of the creation of any powerful institutions in the post-Soviet area were the purpose and the nature of the Commonwealth of Nations. As it is well known, the primary purpose of the Commonwealth is merely cooperation and consultation between their respective members conducted both through diplomatic channels and through negotiations in periodic meetings of heads of states and governments. In doing so, no collective decision made at these meetings is considered binding; consequently, the member states of the Commonwealth rarely act in concert on the international scene and maintain only loose economic ties in the fields of trade, investment, and development programs.[97]

Moreover, the Commonwealth' membership is purely voluntary and its member states can choose at any time to leave the Commonwealth. Last but not least, the major ties binding together this loose association are constituted not by any serious political commitments but by the fairly general use of the same language and of common legal traditions (English language and common law in the case of the Commonwealth of Nations and Russian in the CIS), together with some common symbols, remaining cultural affinities as well as shared traditions and experiences.

In this regard Seidl-Hohenveldern wrote in 1994 that "the very name of the CIS shows what model its member states have chosen to follow".[98] Basically the same opinion was also represented by Balayan who noted in 1999 that "The CIS is to be qualified as a loose association of states with no international legal personality".[99]

6.3 Is the CIS a Strong Decision-Making Entity?

On the other hand, the fact that the CIS was not explicitly endowed with the international legal personality does not necessarily mean that the CIS has been irrevocably deprived of international legal personality and thus the possibility to transform itself into an effective actor on the international scene. The international experience shows that legal personality of an international organization depends on its capability

[97] It should be noted that a set of trade agreements between Britain and the other members gave preferential tariff treatment to many raw materials and manufactured goods that the Commonwealth nations sell in Britain, but the system of preferential tariffs was abandoned after Britain's entry into the EC in 1973.

[98] Seidl-Hohenveldern, Völkerrecht 202 (8th ed., 1994). The similarity of the CIS with the British Commonwealth was also ascertained by Voitovich who characterizing the legal nature of the CIS wrote that: "By the very term 'Commonwealth' the founders of the CIS have brought to mind the structure of the Commonwealth of ex-British colonies" but still came to a conclusion that the CIS is an IGO. See Voitovich, *The Commonwealth of Independent States, supra* at 407–408.

[99] Balayan, Institutionelle Struktur der Wirtschaftsintegration in der Gemeinschaft der Unabhängigen Staaten (GUS) 171 (1999).

to perform actions for which it has been authorized by its member states not only expressly but also on the basis of the so called "implied powers" concept.[100]

Therefore, as put by Zuleeg: "When expressly granted powers are insufficient, the doctrine of implied powers may fill the gap by enabling additional powers to be deduced from functions attributed to an organization in its constituent instrument (functional powers). Implied powers are thus unwritten authorizations possessed by an international organization enabling it to fulfill its purposes".[101] Consequently, the question whether an international organization possesses international personality can only be answered by examining its functions and powers expressly conferred by, or to be implied from, its constitutive treaty and developed in practice.[102]

In fact, the CIS, at the early time of its existence, met even all basic formal criteria of a confederation. In the initial years of the CIS' existence (1992–1993), its member states still had a single, though agonizing, economic space with a common currency, transparent borders, armed forces under a single command, etc. Furthermore, the fact that the CIS was constituted as a multidimensional (political, military, economic and humanitarian) cooperative network with manifold objectives gave reason to some commentators even to argue that the Commonwealth is designed to remain a confederation. Thus, Schweisfurth wrote that "the CIS, having started at Minsk as a simple "treaty community", in the ensuing four months developed into an organized community of states, [or] into a confederation".[103] A Russian scholar Rževskiy put it even more ambitious saying that "confederation is a minimally corresponding legal form of organization of the new Commonwealth".[104] Further, he also wrote that "the creation of a geostrategical unity on the territory of the former USSR by the efforts of independent states, and in the case of its reinforcement by a real economic union, can establish a necessary foundation for the revival of the main attributes of the united statehood and first of all of the common structures prematurely eliminated by

[100] The International Court of Justice (ICJ) expressly stated that "under international law, the organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties". See Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion (1949), ICJ Rep. 174.

[101] Zuleeg, *International Organizations: Implied Powers,* in Encyclopedia of Public International Law, Vol. II, 1312 (R. Bernhardt ed., 1995).

[102] In this regard, it is interesting to quote the advisory opinion of the CIS Economic Court which analyzing the issue of international legal personality of the CIS, on the inquiry of the CIS Executive Secretariat, came to conclusion that "…it is necessary to consider the Commonwealth as a subject of international law. The international legal personality of the Commonwealth constitutes its indispensable property, an attribute of its existence. It does not require additional (official) recognition on the part of the states, including the [CIS] member states, or other international organizations. The Commonwealth is a subject of international law already because of the fact that it really exists and operates in international relations". See Advisory opinion of the CIS Economic Court No. 01–1/2–98 (June 23, 1998).

[103] Schweisfurth, *Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS)*, *supra* at 701 (1992).

[104] Rževskiy, *O yuridicheskoy forme novogo sodružestva nezavisimykh gosudarstv,* Gosudarstvo i Pravo 34 (No. 6, 1993).

the proclamation of the CIS".[105] Belarusian scholars Fissenko wrote that "the CIS is a union of states with a wide sphere of joint activity which includes the foreign policy as well as the defense, which are among the traditional spheres of the confederative competence" and thus maybe recognized as a confederation.[106] Other Russian scholars like Grechko and Shinkaretskaya expressed the opinion that the CIS is both an international organization and a confederation,[107] while Moiseev went even further arguing that the CIS may be compared with the European Union.[108]

6.4 CIS as a Loose Intergovernmental Organization

However, the CIS countries, which became full-fledged subjects of international law, had too much experience of excessive "supranationalism" within the former Soviet Union to be willing to reanimate even a resemblance of it.[109] Accordingly, they clearly refused to confer upon the Commonwealth any powers and competences which would limit their jurisdiction and make the CIS free from their influence. Moreover, most of the countries have chosen to be members of the CIS without committing themselves to extensive engagements while only a minority (Belarus, Kazakhstan and Russia) have demonstrated, though in different degrees and scopes, their will to elaborate a comprehensive, multidimensional integration network.

As a result of the confrontation of two absolutely different approaches with respect to the legal status of the CIS (a "president's club" vs. a confederation), the third approach, which is a compromise between the first two above mentioned, prevailed – the CIS became a loose IGO entirely based on the principles of intergovernmentalism without any limitation of the sovereignty of its participant states.

Similar view was represented by Pustogarov who noted already in 1992 that despite the still existing united armed forces and the common currency, "these confederative elements… do not determine the international legal status the CIS… [because they] are supposed to fade away in due course".[110] Analyzing the legal nature of the CIS, he also came to the conclusion that the CIS is "a subject of international law of the same category as any other IGO".[111] The same opinion was also expressed by some other scholars: Voitovich wrote that "from the institutional

---

[105] Ibid, at 36–37.

[106] Fissenko & Fissenko, *The Charter of Cooperation, supra* at 236.

[107] See Grechko & Shinkaretskaya, *Ponyatie Konfederatsii i SNG,* Moscovskiy Žurnal Meždunarodnogo Prava 72 (No. 2, 1994).

[108] See Moiseev, Pravovoi Status Sodružestva Nezavisimykh Gosudarstv 18 (1995).

[109] For example, President Kravchuk told that he "will not allow the CIS to be turned into a supranational body subject to international law". See The New York Times (23.01.1993).

[110] Pustogarov, *SNG – Meždunarodnaya Regional'naya Organizatsiya,* Rossiiskii Ežegodnik Meždunarodnogo Prava 51–52 (1992).

[111] Pustogarov, *Meždunarodno-Pravovoi Status Sodružestva Nezavisimykh Gosudarstv,* Gosudarstvo i Pravo 35 (No. 2, 1993).

viewpoint, the present-day CIS can be considered an intergovernmental organization which may act as an international legal person in the field of its competence",[112] Lippot noted that "the CIS is an international organization in the sense of international law that serves as a framework organization for a series of integration measures",[113] and Pechota concluded that "taking into account the degree of institutional stability and international acceptability achieved by the Commonwealth, it is not unreasonable to assume that the CIS constitutes an international organization".[114]

Pechota also added that the status of the CIS "is not indisputable…[and] the ultimate test of the Commonwealth's legal personality is in the faculty of its principal organs to make independent decisions. In this respect…the situation is obscured by the practice of the governing bodies of the Commonwealth to clothe all their important decisions into the uniform of agreements which are subject to subsequent approval by member states".[115] However, exactly this matter of fact, as one of the basic characteristics of any IGO, evidently reveals the legal nature of the CIS as an institutionalized association which, in difference to a supranational decision-making entity like the EU, possesses no independent powers, fully depends on its member states and may independently issue only non-binding recommendatory acts aimed at promoting voluntary cooperation and coordination between its member states.

With respect to the legal nature of the CIS, it should be also noted that the CIS states agreed that "fundamental legal base for [their] interstate relations" in the framework of the Commonwealth would be composed of their "multilateral and bilateral agreements [concluded] in various spheres of relations".[116] Accordingly, the CIS states concurred on the possibility of a *multispeed and multilevel* integration. As it is generally known, this formula allows organizations with diverse membership to have a certain degree of flexibility and is used, e.g. in some areas of activities of the EU. Although the CIS Charter provided that "the agreements concluded within the framework of the CIS shall correspond to the purposes and principles of the CIS and to the obligations of the member states under the present Charter",[117] a defining characteristic of the CIS legal framework became the variable geometry principle of the kind, which, as put by Dragneva, "is not subject to any minimum cooperation thresholds".[118]

---

[112] Voitovich, *The Commonwealth of Independent States, supra* at 408.

[113] Lippot, *The Commonwealth of Independent States as an Economic and Legal Community,* 39 GYIL 360 (1996).

[114] Pechota, *The Commonwealth of Independent States, supra* at 595.

[115] Ibid, at 595–596. Pechota still concludes that "despite the Commonwealth's imperfections and the legal vagueness surrounding its status, it is reasonable to regard the CIS as a regional agency within the meaning of Chapter VIII of the UN Charter". Ibid, at 630.

[116] CIS Charter (Jan. 22, 1993), Art. 5.

[117] Ibid, Art. 5. Additionally, the CIS Charter contained a provision saying that "should a contradiction arise between the norms of national legislations of member states, governing the relations in the fields of joint activity, the member states shall conduct consultations and negotiations with the view of elaboration of proposals on elimination of the contradictions". Ibid, Art. 20.

[118] Dragneva, *Is "Soft" Beautiful Another Perspective on Law, Institutions, and Integration in the CIS?,* 29 Review of Central and East European Law 287 (2004). Dragneva also points out that "most of the over 1500 multilateral agreements signed to date have a variable number of signatories; in addition, there is approximately the same amount of bilateral agreements". Ibid, at 286.

Moreover, the practice of CIS countries "to implement only those agreements in which they are interested" was manifestly described by Kirilenko and Mishalchenko as "an anti-integration norm".[119] In addition, they wrote that "the drawback of the CIS agreements is that they determine merely outlines of cooperation, its main principles and directions but do not contain any specific obligations. The norms of such agreements are largely of recommendatory character rather than imperative".[120]

Furthermore, the CIS experienced significant problems related to the delay in transformation of the CIS agreements into national law and the lack of synchronization of the transformation procedures,[121] which also significantly impeded the development of any integration processes.

The above mentioned obstacles encountered by the CIS are logical consequences of its nature of a loose IGO, i.e. an institutionalized association which, however, has neither autonomous powers of its own nor the authority to impose its rulings on its members and accordingly is just not suitable for implementation of any tasks connected with pursuing the creation of advanced forms of RIAs.

7 Attributes of the CIS as an International Organization

7.1 Generally

Most generally, an international organization is understood as a permanent association of sovereign states established by and based upon an international treaty, which pursues common objectives and which has its own institutional framework to fulfill particular functions within the organization. Thus, any international organization must satisfy at least four attributes to have legal capacity under international law: (1) it must be established on the basis of an international treaty in conformity with international law; (2) its membership must be composed of sovereign states; (3) it must be created to attain certain purposes and objectives that are distinct from the sovereign power of its member states; (4) it must have its own institutional framework including a permanent secretariat to carry on continuous administrative functions. In the following the legal characteristics of the CIS will be analyzed in order to demonstrate its nature as an international organization.

---

[119] Kirilenko & Mishalchenko, *Pravo Sodružestva Nezavisimykh Gosudarstv v Sisteme Meždunarodnogo Prava,* Moscovskiy Žurnal Meždunarodnogo Prava 125 (No. 3, 2003).

[120] Ibid.

[121] See, e.g. Egiazarov & Oksamytnyi, *Pravo SNG i Natsionalnoe Zakonadelstvo Gosudarstv-Uchastnikov,* Pravo i Ekonomika 4 (No. 2, 1998).

7.2 Conformity with International Law

The CIS, as any international organization, is established and based upon a multilateral treaty. As provided by the Preamble of the CIS Charter, its member states "voluntarily united into the Commonwealth" and acting "in accordance with the universally recognized principles and norms of international law, the provisions of the UN Charter, Helsinki Final Act and other documents of the CSCE" have resolved to adopt the Charter of the Commonwealth.[122]

Furthermore, in order to attain the Commonwealth's objectives the member states of the CIS pledged themselves to build up their relations on the generally recognized principles of international law as provided by the UN Charter and the Helsinki Final Act such as:[123]

> 1) respect for sovereignty of member states, for imprescriptible right of peoples for self-determination and for the right to dispose their destiny without interference from outside; 2) inviolability of state frontiers, recognition of existing frontiers and renouncement of illegal acquisition of territories; 3) territorial integrity of states and refrain from any acts aimed at separation of foreign territory;[124] 4) refrain from the use of force or of the threat of force against political independence of a member state; 5) settlement of disputes by peaceful means; 6) domination of international law in the interstate relations; 7) non-interference into domestic and foreign affairs of each other; 8) guarantee of human rights and fundamental freedoms; 9) fulfillment in good faith of the obligations assumed in accordance with the documents of the Commonwealth.

This list also contains more specific principles including:[125]

> 10) concern for the interests of each other and of the entire Commonwealth, rendering assistance in all the spheres of their relations based on mutual accord; 11) bringing together the efforts and rendering support to each other with the aim to establish peaceful conditions of life for the peoples of the Commonwealth member states, to ensure their political, economic and social advancement; 12) development of mutually beneficial economic, scientific and technical cooperation, the expansion of integration processes; and 13) spiritual unity of their peoples, which is based on respect for their uniqueness, close cooperation in preservation cultural values and cultural exchange.

Like all other international organizations, the CIS is subject to the general requirements of the law of treaties. Thus, the Charter requires its ratification by the signatory states in accordance with their respective constitutional processes for the entry into force. However unlike the constitutive treaties of such highly integrated supranational organization as the EU which require ratification by all signatory states, the CIS Charter provides as it is usual for the constituent treaties of the most IGOs that

---

[122] CIS Charter (Jan. 22, 1993), at Preamble.

[123] Ibid, Art. 3.

[124] It is interesting to note that on April 15, 1994 a Declaration on the Respect for Sovereignty, Territorial Integrity and Inviolability of Borders was adopted which reaffirmed the obligations of the CIS members to refrain from any form of pressure in mutual relations and from supporting separatism. This Declaration was signed by eleven CIS states (all except for Armenia).

[125] CIS Charter (Jan. 22, 1993), Art. 3.

it comes into force "for all signatory states upon the deposit of ratifications of all the signatory states, or for signatory states which will have their ratifications deposited one year after the present Charter has been adopted".[126]

Another big difference to the EU is that the member states of Commonwealth may make reservations to the CIS Charter. Specifically mentioned are Chapters III (Collective Security and Military-Political Cooperation), IV (Prevention of Conflicts and Dispute Settlement), VII (The Interparliamentary Cooperation) and even Articles 28, 30, 31, 32, 33 (regulating the status and functions of such CIS organs as the Coordination and Consultation Committee, the Council of Defense Ministers, the Council of the Frontier Troops Chief Commanders, the Economic Court and the Commission on Human Rights).[127]

As it is usual in other IGOs, the CIS participant states themselves bear all the expenses resulting from the participation of their representatives, experts and consultants in the work of meetings and of the Commonwealth organs.[128] The expenses for financing the activities of the Commonwealth organs are supposed to be distributed on the basis of share holding of member states. These expenses are established in compliance with the specific agreements on the budgets of the Commonwealth organs which are adopted by the Council of Heads of States on the proposal of the Council of Heads of Governments (the highest organs of the CIS).[129]

Also, in full correspondence to international law, the Charter may be amended only upon the consent of all CIS member states. The amendments may be initiated by any member state and must be considered and adopted by the Council of Heads of States. In order to come into force they also must be ratified by all member states and transmitted to the depositary,[130] the functions of which are entrusted with Republic of Belarus.[131] Finally, the Charter also provides that it must be registered in accordance with Article 102 of the UN Charter,[132] which was done by the CIS Executive Secretariat on behalf of the CIS participant states on August 3, 1994.

7.3 CIS Membership

On the whole, the provisions on membership are also in line with the existing practice of international institutions. As it is common for international organizations, the CIS membership is restricted to sovereign states. At the same time, in view of the existing divergence in the positions of the potential members, the CIS Charter

[126] Ibid, Art. 41.

[127] Ibid, Art. 43.

[128] Ibid, Art. 40.

[129] Ibid, Art. 38. The CIS organs are discussed *infra* in subchapter 9.

[130] Ibid, Art. 42.

[131] Ibid, Art. 45.

[132] Ibid, Art. 44.

has a very flexible approach to membership leaving the Commonwealth's door open both for those states which strive for closer interaction and those which prefer to cooperate in a selective way. Therefore, the Charter makes a distinction between the founding states, the member states, the associate members and the observers.[133]

The founding states are those which had signed and ratified the Agreement Establishing the CIS of December 8, 1991 and the Protocol to this Agreement of December 21, 1991 by the date of the adoption of the Charter. *The member states* are those founding states which accept the obligations contained in the Charter within one year of its adoption. Any other state sharing the objectives and principles of the Commonwealth and accepting the obligations of the Charter may become a CIS member state by means of accession upon the consent of all member states. Besides, pursuant to a decision of the Council of Heads of State, any state willing to participate only in certain kinds of activities may accede to the Commonwealth as an *associate member* under conditions specified in the relevant agreements. Finally, the Council of Heads of States may grant *observer status* to any non-member states willing to attend the meetings of the Commonwealth bodies.

In fact there were and still remain different groups of CIS states: (1) member states representing the majority of the CIS states which ratified both the establishing acts of the CIS and the Charter; (2) Ukraine which is a founding member of the CIS but did not ratify the Charter; and (3) Turkmenistan which did not ratify the Charter, discontinued its permanent relationship with the CIS as of August 26, 2005 and is now an associate member. For that reason, in the juridical terminology there is also another term – "*CIS participant states*" which encompasses all the post-soviet states more or less involved in the CIS activities and which subsequently will be used in this book with respect to the CIS as a whole.

Furthermore, the CIS is open for accession by third states. The Charter explicitly provides that "the membership of the Commonwealth is open to any state sharing the purposes and the principles of the Commonwealth and assuming the obligations under the present Charter".[134] As it is common in international organizations, the accession of third states is subject to the approval by all CIS member states.[135]

The Charter also expressly grants the right of any individual member state to withdraw from the Commonwealth by lodging a written notice with the depository. As it is common in international practice withdrawal is possible only after the lapse of specified period of time and/or when certain conditions are satisfied. The Charter requires the withdrawing state to inform the depositary in writing about its intention 12 months before the termination of its membership and to perform all the obligations that arose during the CIS participation which remain binding upon the relevant states until their "complete fulfillment".[136] Moreover, the Charter also contains provisions for exclusion from the organization for the violations of the Charter by

[133] Ibid, Arts. 7 and 8.

[134] Ibid, Art.7.

[135] Ibid.

[136] Ibid, Art. 9.

member states as well as for the systematic non-fulfillment of obligations under agreements or decisions adopted within the framework of the Commonwealth. The Charter clearly states that the Council of Heads of States may take "measures acknowledged by the international law against such a state".[137]

7.4 Purposes and Objectives of the CIS

As it is well known and generally accepted, international organizations are understood to perform useful functions within the interstate system. Most importantly, they provide the means of cooperation particularly in the areas of mutual interest of their member states. Second, in many cases they provide not only a place where decisions to cooperate can be reached but also the multiple channels of communication among governments and the administrative machinery for translating the decisions into action. Third, modern international organizations have made available a new dimension for the possibilities of accommodation and compromise much beyond the previously existing channels of diplomacy and peaceful settlement.[138]

The above-mentioned functions of international organizations were fully compatible with the desire of the CIS founders to create a multidimensional cooperative network which would pursue multiple objectives and provide manifold and continuous contact points through which accommodation between the former Soviet republics could be exercised.

In this regard, the CIS Charter defined the following spheres of joint activity of the CIS participant states which also may be considered as the objectives of the CIS:[139]

> (1) guarantee of human rights and fundamental freedoms; (2) coordination of foreign policy; (3) cooperation in formation and development of common economic space and customs policy; (4) cooperation in development of transport and communication systems; (5) cooperation in health care and protection of environment; (6) cooperation in issues of social and migration policy; (7) struggle against organized criminality; as well as (8) cooperation in the field of defense policy and protection of external frontiers.

Besides, the CIS Charter explicitly listed the following purposes of the organization:

> (1) accomplishment of cooperation in political, economic, ecologic, humanitarian and other spheres; (2) the all-round balanced economic and social development of member states within the framework of common economic space, the interstate cooperation and integration; (3) guarantee of the rights and basic freedoms of individuals in accordance with the universally recognized principles and norms of international law and documents of CSCE; (4) cooperation among member states to ensure world peace and security, realization of effective measures aimed at the reduction of arms and military expenditures; (5) elimination of nuclear and other kinds of mass extermination weapons, achievement

---

[137] Ibid, Art. 10.

[138] See, e.g. generally Bennet, International Organizations, *supra*.

[139] CIS Charter (Jan. 22, 1993), Art. 4. The CIS states also agreed that the present list may be supplemented on their mutual agreement.

of the general and complete disarmament; (6) promotion of freedom of communications, contacts and travels in the Commonwealth for the citizens of its member states; (7) mutual legal assistance and cooperation in other spheres of legal relations; (8) pacific settlement of disputes and conflicts among the states of the Commonwealth.[140]

7.5 Institutional Framework of the CIS[141]

Since the viability of any organization depends on the existence of special bodies devoted to administer it by performing specific functions, another defining feature of an international organization is the availability of its institutional framework.

As it is most common in international practice, all important issues referring to the composition, powers, spheres of operation and decision-making procedures of the institutions (or organs) of an international organization are regulated, as a matter of great significance, by its constituent treaty. Also in the case of the CIS, these matters are settled for the most part by its constituent treaty – the CIS Charter, which provided a quite extensive list of ten main CIS organs (which are also referred to as CIS statutory institutions).

Similarly to many other classical international organizations, the CIS organs may be grouped into four major types:

- Principal policy-making organs;
- Coordinative-executive organs;
- Administrative organ; and
- Subsidiary organs.

The *principal* organs of the CIS are represented by the Council of Heads of States and the Council of the Heads of Government. The CIS *executive-coordinative* organs are the Council of Foreign Ministers, the Council of Defense Ministers the Council of the Frontier Troops Chief Commanders, the Economic Council as well as a great number of supplementary sectoral bodies at the level of governmental agencies created and incorporated into the CIS institutional framework on the basis of separate agreements. Despite its name, another organ of the Commonwealth – the CIS Executive Committee is in general an *administrative organ* and performs primarily functions of an organizational and technical nature. Similar to administrative organ of most IGOs, which are generally called secretariats, the CIS Executive Committee has a hierarchical structure managed by a head who is appointed by the highest principal organ. In addition, the CIS institutional framework includes also organs of *subsidiary* character: the Interparliamentary Assembly, the Commission on Human Rights and the Economic Court.

---

[140] Ibid, Art. 2.

[141] This subsection provides a brief overview of the institutional framework of the CIS as one of the necessary attributes of an international organization. More full description of all the organs of the CIS is contained in the subsequent Chapter IV “Institutions of the CIS”.

8 Institutions of the CIS[142]

8.1 CIS Principal Organs

All international organizations have their principal policy-making organs in which all member states are represented. In regional (and/or closed) organizations, these organs are non-permanent bodies which meet relatively infrequently, though generally at periodic intervals, and are composed either of heads of states and governments of the member states who are authorized to make decisions regarding all or certain matters concerning the organization.

The CIS principal organs include: (1) a general organ with full powers in all fields which is *the Council of Heads of States* (CHS); and (2) a subordinated organ with limited powers primarily in economic sphere which is *the Council of the Heads of Government* (CHG).[143] Both the CHS and the CHG are the oldest bodies of the CIS which were established already during Alma-Ata summit on December 21, 1991.[144]

As it is common for principal organs of any IGO, both the CHS and the CHG take decisions regarding all questions only on the basis of consensus, except for procedural matters. In doing so, the consensus itself is understood as "the absence of official objections from all of the participant states".[145]

The CIS principal organs hold their regular meetings at periodic intervals at least twice a year; besides, the extraordinary meetings may be also convened at the initiative of one of the participant states. If need be, both principal councils may have a joint meeting.

The meetings of both the CHS and the CHG are "as a rule open"; however, the issue of the presence of mass media at these "open meetings" is decided in any specific case by the general consent of all members. Moreover, both the CHS and the CHG may freely decide to conduct a closed meeting with a limited number of persons.[146]

---

[142] See more details on the CIS institutions in Fig. 1 "Scheme of the CIS Institutions", Table 2 "Information on the CIS Statutory Institutions" and Table 3 "List of the CIS Sectoral Councils and Associations" (available in Annex).

[143] It should be noted that the term "Council" for the description of principal policy-making organs is also used in such regional (and/or closed) international organizations as the League of Arab States, OECD, NATO and the European Union.

[144] The CHS along with the CHG were created on the basis of the CIS Agreement on Coordination Institutions which just shortly stated that "CHS as well as a CHG shall be set up with a view to tackling matters connected with coordinating the activities of the states of the new Commonwealth in the sphere of common interests". Subsequently, the Agreement was supplemented by the Interim Agreement on the CHS and CHG of December 30, 1991 which laid down the basic principles of the organization and the activities of these organs and was in force until the adoption of the CIS Charter.

[145] Rules of Procedure (Oct. 7, 2002), Rule 17 (1).

[146] Ibid, Rule 10.

The meetings of both principal organs are presided by a chair-in-office whose role is implemented by representatives (either a president or a prime minister in the CHS and the CHG respectively) of a particular CIS state, on a rotating basis according to the Russian alphabetic order of the names of the CIS countries, as a rule for a term of one-year.[147] The most important task of the chair-in-office is to formulate and introduce agenda of the meeting; and he is usually assisted by his co-chairs who are both the preceding and the subsequent chairs of the respective council.[148]

8.1.1 The Council of Heads of States

The Council of Heads of States is the highest body of the Commonwealth in which all CIS participant states are represented at the top level, i.e. by their presidents.[149] In order to understand the importance of this organ properly, it should be noted that all CIS countries are pronounced presidential republics where presidents are the major policy-makers both with regard to foreign and domestic policy.[150]

According to the CIS Charter the main function of the CHS is "to discuss and take decisions on the principal issues relating to the activities of the CIS countries in the fields of their mutual interests".[151] In addition, it is important to note that the CHS may consider "any issue among interested states without detriment to the interests of the other CIS participant states",[152] which fully reflects the multispeed and multilevel character of the CIS. Also, it is specifically stipulated that the CHS takes decisions on the following issues:

> (1) the introduction of amendments to the CIS Charter; (2) the establishment of the new working and subsidiary organs on both permanent and temporary basis as well as on the abolition of the existing CIS organs; (3) the optimization of the CIS structure and of the activities of the CIS organs; (4) hearing of the reports of the CIS organs on the issues of their activities; (5) the appointment (or confirmation) of the heads of the CIS organs; (6) the delegation of the competences to the subordinate CIS organs; and (7) the approval of the statutes (rules of procedure) of the CIS organs.[153]

As a rule, the CHS adopts its decisions in the form of CIS agreements, "the conclusion and entry into force of which must be implemented in full correspondence with the provisions of the Vienna Convention on the Law of Treaties of 1969",[154] which

---

[147] Ibid, Rule 8.

[148] Ibid.

[149] CIS Charter (Jan. 22, 1993), Art. 21.

[150] Even in Ukraine, which after the Orange revolution has moved toward the mixed presidential-parliamentarian form of government, the president is still the major policy-maker in the foreign and security fields and has significant influence with respect to the domestic politics.

[151] CIS Charter (Jan. 22, 1993), Art. 21.

[152] Decision of the CHS on the Division of Competences between the Council of Heads of States and the Council of Heads of Governments (Apr. 2, 1999), Par.1.

[153] Ibid.

[154] Rules of Procedure (Oct. 7, 2002), Rule 16 (3).

primarily means that they are subject to ratification by CIS states which voted for them. In addition, the Council adopts also declarations, statements and protocol decisions.[155]

8.1.2 The Council of Heads of Governments

The Council of Heads of Governments (CHG) is the second highest organ of the CIS consisting of the prime ministers of the CIS participant states and fully subordinated to the CHS.

The major function of the CHG is "to coordinate cooperation among the executive organs of the CIS participant states in economic, social and other spheres of mutual interests".[156] Thus, similar to the domestic practice of the CIS countries where prime-ministers deal with the socio-economic issues following the main directions of the policy as determined by the presidents, the CHG is concerned chiefly with the economic matters pursuing the strategic goals as put by the CHS. In particular, the GHG may decide on the issues connected to:

> (1) the realization of the tasks given by the CHS; (2) the realization of the provisions regarding the establishment of a free trade area; (3) the adoption of joint programs of development of the industry, agriculture and other branches of the economy as well as their financing; (4) the development of the transport, communication and energy systems; (5) the cooperation in the issues of the tariff, monetary and tax policies; (6) the elaboration of the mechanisms directed to the formation of a single scientific and technological space; (7) the establishment the working and subsidiary organs on both permanent and temporary basis within the limits of its competence; and (8) the financial maintenance of the organs of the Commonwealth.[157]

The CHG takes its decisions, within the limits of its competence, also in the form of CIS agreements which are usually adopted on more specific (primarily economic) issues than those of the CHS and also must fully correspond to the requirements of international law.

8.2 CIS Executive-Coordinative Organs

The CIS executive-coordinative organs, similar to the principal organs, are non-permanent bodies composed of the representatives of member states who meet at periodic intervals. Thus, similar both to the CHS and the CHG, they are very much alike organized diplomatic conferences. However, the delegates sent to the executive-coordinative organs are fully subject to the instruction of the CIS principal

---

[155] Ibid, Rule 16 (1).

[156] CIS Charter (Jan. 22, 1993), Art.22.

[157] Decision of the CHS on the Division of Competences between the Council of Heads of States and the Council of Heads of Governments (Apr. 2, 1999), Par.2.

organs and their major task typically includes to run the organization based on the decisions of the CHS and the CHG and to prepare certain types of activities.

Likewise to the CIS principal organs, the decisions of the executive organs are taken only on the basis of consensus, except for procedural issues. However, their decisions have merely character of recommendations which are then submitted for the consideration of the CHS and CHG. Another similarity with the CIS principal organs is that the meetings of the CIS executive organs are also presided by chairs-in-office who are particular members of these organs, on a rotating basis according to the Russian alphabetic order of the names of the CIS states, for a term of one year. The preceding and the subsequent chairs are considered to be co-chairs.

This section will provide a brief overview of the statutory CIS executive-coordinative organs (i.e. those specifically mentioned by the CIS Charter or their direct successors): the *Council of Foreign Ministers*, the *Council of Defense Ministers,* the *Council of the Frontier Troops Chief Commanders and* the *Economic Council*.

However, it should be noted that there is a number of additional sectoral councils which are not directly mentioned by the CIS Charter being created on the basis of separate agreements.[158] These organs composed of the top officials of the CIS countries (as a rule, the heads of the respective national agencies) are created to contribute to the improvement of the manifold interaction of the CIS states and to promote the realization of the agreements in their respective specific fields. The most important of them include: *Council of Heads of National Security Services, Council of Ministers of Internal Affairs, Council of Ministers of Justice, Antiterrorist Center, Coordination Council of General Prosecutors, etc*.[159]

Being components of the CIS institutional framework, the executive-coordinative organs are very much similar to independent organizations having their own tasks and functions, and in certain case their own permanent working bodies[160] and even different membership.[161]

---

[158] The CIS Charter stipulated that the CIS states may establish, on the basis of separate agreements, sectoral coordinating bodies (the so called "organs of branch cooperation") to facilitate cooperation in specific areas at the level of governmental agencies. CIS Charter (Jan. 22, 1993), Art. 34.

[159] At the present, there are almost 70 CIS sectoral councils which may be classified into the following seven groups: (1) industry; (2) agriculture; (3) transport and communication; (4) scientific and technological advance; (5) trade, finances and customs policy; (6) ecological security; and (7) security and criminality-fighting. For the complete list of these sectoral councils, see Table No. 3 "List of the CIS Sectoral Councils and Associations" (available in Annex).

[160] For example, the Council of Foreign Ministers is supported in its activities by the Council of the Permanent Plenipotentiary Representatives, the Council of Defense Ministers by its own Secretariat, the Council of the Frontier Troops Chief Commanders by a Coordination Service, the Council of the Ministers of Internal Affairs by a Coordination Bureau, Antiterrorist Center by a special Apparatus.

[161] For example, in the case of the Council of Defense Ministers and the Council of the Frontier Troops Chief Commanders which unite only eight and seven CIS countries respectively.

However, all of them are united by two major factors. First, they all are subordinated to a "single center" represented by the CHS and the CHG. Second, all CIS executive-coordinative organs have a single purpose which is to elaborate major directions of sectoral cooperation between the CIS countries and facilitate their practical implementation by making recommendations to the CIS principal organs.

8.2.1 The Council of Foreign Ministers

The Council of Foreign Ministers (CFM), consisting of the foreign ministers of the CIS states, is defined as "the main executive organ which shall maintain the cooperation of the CIS participant states in the field of foreign policy with respect to the issues of mutual concern in the period between the meetings of the CHS and CHG and which on their instructions shall adopt decisions".[162]

The CFM was formally created by the CIS Charter which provided that the Council "on the basis of the decisions of the CHS and the CHG shall coordinate the foreign political activity of member states, including their activities in the international organizations, and shall organize consultations on the issues of world policy, which are of mutual interest".[163] The further main functions of the CFM include:

> (1) to consider the course of implementation of the CIS agreements; (2) to provide its conclusion on the agenda drafts of the meetings of the CHS and the CHG; (3) to conduct consultations in the filed of foreign policy on the issues of mutual interest; (4) to consider issues of interaction of the interested CIS countries in the UN and other international organizations including the possibility of putting forward joint initiatives; and (5) to develop and submit corresponding proposals to the CHS and the CHG.[164]

8.2.2 The Council of Defense Ministers

Along with the CHS and the CHG, the Council of Defense Ministers (CDM) is one of the oldest organs of the CIS which was established by the decision of the CHS on February 14, 1992. Initially, the CDM membership included not only defense ministers of the CIS countries but also the Chief Commander of the Joint Armed Forces (who was supposed to be the chairperson of the Council).[165] However, on April 15, 1994, as the consequence of the abolition of the Joint Armed Forces Chief Command,[166] the CHS approved a new version of the CDM Regulations, which, on one hand, limited the membership of the Council only to the defense ministers of

---

[162] Regulations on the CFM (Apr. 2, 1999), Par.1.

[163] CIS Charter (Jan. 22, 1993), Art. 27.

[164] Regulations on the CFM (Apr. 2, 1999), Par. 8.

[165] Regulations on the CDM (Feb. 14, 1992), Par. 1.

[166] Discussed *infra* in subchapter 10.1.

the CIS countries, but, on the other, increased the number of its signatories from merely five to today's eight: Armenia, Azerbaijan (with reservations, practically meaning associate membership), Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.[167]

The CIS Charter provided that the CDM "shall be an organ of the Council of Heads of States on the issues of military policy and of military construction of the member states."[168] Thus, because of the political relevance of its activities, the CDM is directly subordinated to the CHS and is endowed with the implementation of the following main functions:

> (1) to consider main issues of the military policy and the military development of the CIS states; (2) to coordinate the efforts of the CIS defense ministries on the issues of the implementation of the CIS agreements; (3) to coordinate the military cooperation of the CIS states; (4) to exercise operative command over the CIS peacekeeping collective forces; and (5) to develop and submit proposals on the issues of military development and cooperation to the CHS and the CHG.[169]

8.2.3 The Council of the Frontier Troops Chief Commanders

On July 6, 1992 the CHS adopted a decision to abolish the CIS United Command of the Frontier Troops and to create the Council of the Frontier Troops Chief Commanders (CFTCC) which became one of the main institutions of the CIS and was incorporated to the CIS Charter. The membership of the CFTCC currently includes seven CIS countries: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.

According to the CIS Charter, the CFTCC is an organ "on the issues of guarding the external frontiers of member states and of ensuring stable situation there".[170] The term "external borders" denotes those sections of national boundaries of CIS countries that constitute the border with non-member states. The same as the CDM, the CFTCC is directly subordinated to the CHS. Its main functions include:

> (1) to consider main issues of guarding the external frontiers of the CIS states; (2) to coordinate the efforts of the CIS states' frontier troops regarding the protection of their external borders as well as the ensuring stable situation there; (3) to consider reports of the Coordination Service [permanent working body of the CFTCC] on the operative situation at the external borders of the CIS states; and (4) to develop and submit proposals on the issues of frontier protection to the CHS and the CHG.[171]

---

[167] The initial five countries (Armenia, Kazakhstan, Russia, Tajikistan and Uzbekistan) were joined in 1994 by Azerbaijan, Belarus, Georgia and Kyrgyzstan. However, on January 31, 2006 Georgia withdrew from the Council.

[168] CIS Charter (Jan. 22, 1993), Art. 30.

[169] Regulations on the CDM (Apr. 15, 1994), Par. 3.1.-3.19.

[170] CIS Charter (Jan. 22, 1993), Art. 31.

[171] Regulations on the CFTCC (Sep. 24, 1993), Pars. 2, 3.

8.2.4 Economic Council

At the beginning, the CIS Charter provided for the establishment of a "Coordination and Consultative Committee" which was supposed to be "a permanent executive and coordinating body of the Commonwealth".[172] The Committee was composed of the deputy prime ministers and was responsible for the realization of the decisions of the CHS and the CHG as well as the elaboration of proposals "on the issues of cooperation in political, economic, social, ecological, humanitarian, cultural, military, legal and other spheres".[173]

However, since the processes of regional integration in the framework of the CIS did not progress and it proved to be impossible to involve all CIS countries into both military-political and economic cooperation, the Committee was reorganized and transformed into a new organ – the Economic Council which was established by a decision of the CHS on April 2, 1999.

The same as the Committee, the Economic Council being the "the main executive organ which is responsible for the implementation of the CIS agreements" consists of the deputy prime ministers of the CIS states,[174] however, in difference to the former, it is not a permanent organ (meeting every four months) and its responsibilities are limited to "the formation of a free trade area and other issues of the socio-economic cooperation".[175] Most important functions of the Economic Council include making recommendations to the CHS and the CHG in the following spheres:

> (1) deepening manifold economic cooperation in the framework of the CIS, the establishment of an FTA and the creation of favorable conditions for the transition to the higher levels of the economic cooperation based on the freedom of movement of goods, services, labor and capital; (2) creation of the mutual payment system; (3) formation of a common agrarian market; (4) development of joint economic programs and projects in various fields including industry, agriculture, transport, exploitation of mineral raw materials as well as to solve issues of the freedom of transit; (5) deepening the cooperation in the sphere of science and technology; (6) promotion of the entry of the CIS states into international trading system and the development of the cooperation with other international organizations.[176]

---

[172] CIS Charter (Jan. 22, 1993), Art. 28. As it is clearly seen, the name of this organ "coordination and consultative" was in an obvious contradiction with its main purpose to perform "executive functions". This contradiction, in its turn, reflects a compromise between those CIS countries which desired to create on the basis of the CIS a strong decision-making entity and those which just wanted a weak coordination club. This struggle is also apparent in the fact that Regulations on this organ (which were adopted on May 14, 1993 and ceased to be effective on December 1, 2000) were signed by Ukraine only with several reservations, one of them plainly stating that "for Ukraine, this Committee is a coordination and consultative organ and not executive".

[173] Regulations on the CIS Coordination and Consultative Committee (May 14, 1993), Par. 5.

[174] Regulations on the Economic Council (Jan. 25, 2000), Par.7.

[175] Ibid, Par.1.

[176] Ibid, Pars. 4, 5. It should be noted that Azerbaijan, Moldova and Ukraine made reservations with respect to provisions of the Regulations allowing the CIS any kind of international legal capacity.

8.3 Executive Committee as the CIS Administrative Organ

The status of the CIS Executive Committee was determined to be "a single permanent executive, administrative and coordination organ of the CIS".[177] The manifold purposes of this organ may be explained by the fact that the CIS Executive Committee, established by a decision of CHS on April 2, 1999, originates from two previous CIS bodies: the CIS Executive Secretariat[178] and the Interstate Economic Committee[179] which were reorganized and merged into one permanent organ.

However, the main objective of the CIS Executive Committee which is "to maintain the working of the CHS, the CHG, the CFM, the Economic Council and other organs of the CIS",[180] leaves no doubt on the nature of this organ as primarily a permanent administrative body entrusted with duties of organizational and technical nature and mainly responsible for overseeing and performing secretarial functions. Further important functions of the Committee, which are also common to the secretariats of most IGOs, include:

> (1) to analyze the course of the fulfillment of the decisions and agreements adopted in the framework of the CIS and to report on their implementation to the CHS, the CHG, the CFM, the Economic Council; (2) to elaborate the draft of the single budget of the CIS organs and to exercise control over its implementation; (3) to report once every four months to governments of the CIS states on the implementation of the budget; (4) to prepare analytic, reference and other materials for the CHS, the CHG, the CFM, the Economic Council; (5) to provide the informational support to the CIS states with respect to documents adopted or considered by the CIS; (6) to register documents adopted by the CHS, the CHG, the CFM and the Economic Council and to keep the archives; (7) to exercise the functions of the depositary of the documents adopted in the framework of the CIS; (8) to keep minutes of the meetings of the CHS, the CHG, the CFM and the Economic Council and if required of other CIS organs; (9) to issue the informational bulletin of the CHS and the CHG, the economic bulletin and other informational transactions.[181]

In fact, although this organ was also endowed with competences to make proposals and submit draft documents to the CIS Councils, its powers were substantially restricted by a provision saying that it may do so "only in cooperation with the CIS states and the other CIS organs".[182]

---

[177] Regulations on the Executive Committee (June 21, 2000, as amended on Aug. 23, 2005), Par. 1.

[178] The CIS Executive Secretariat was created on May 14, 1993 and was supposed to be subordinated to the CIS Coordination and Consultative Committee (the Chairperson of the Secretariat was the deputy of the Chairperson of the Committee).

[179] The Interstate Economic Committee was created on September 24, 1993 as a special permanent coordinating and executive organ intended to facilitate the implementation of the CIS Treaty on the Economic Union and provided with the authority to adopt decisions on a number of issues by qualified majority of votes. However, since the integration in the framework of the CIS Economic Union did not progress and the CIS transformed itself into a more and more loose IGO, the idea of a strong executive organ was abandoned. Discussed *infra* in subchapter 11.3.3.

[180] Regulations on the Executive Committee (June 21, 2000), Par. 1.

[181] Ibid, Par. 7.

[182] Ibid, Par. 6.

Another indicator showing the administrative character of the CIS Executive Committee is that this organ is fully accountable for its activities not only before the CIS principal organs, but also before the CFM and the Economic Council.[183] Furthermore, it must coordinate its activities with the permanent working organs of the CFM and the Economic Council: the Council of Permanent Plenipotentiary Representatives and the Commission on Economic Issues.[184]

The Committee is headed by the CIS Executive Secretary who is the main administrative person of the CIS appointed by the CHS on the basis of consensus for the term of three years at the proposal of the CIS states; in the case of his premature release from office, CHS may decide by a simple majority of votes.[185]

The Executive Secretary directs the activities of the Committee and is responsible for the implementation of its tasks and functions. Furthermore, he is in charge of the following duties:

> (1) to organize preparation and conducting of the meetings of the CHS, the CHG, the CFM and the Economic Council; (2) to participate at the meetings of the Economic Council with the right of deliberative vote; (3) to determine the functions of the structural units of the Committee; (4) to distribute the means of the single budget of the CIS sectoral organs [of socio-economic character] accountable to the CHG.[186]

The Executive Secretary may have up to four deputies (two of whom have the rank of the first deputies) who may not be citizens of the same state and are appointed on a rotational basis for a term of three years and released from office by the CHS at the proposal of the CIS states based on the notion of the Executive Secretary.[187]

All other employees of the Committee are appointed on a competitive basis by the Executive Secretary at his own discretion, except for the directors of the departments and their deputies who are though appointed also by him but at the proposal of the CIS participant states. In making appointments, the Executive Secretary should have regard principally to the merits of the applicants, but must also take into account the CIS states' financial contributions and the equitable geographical distribution of appointments.[188]

As it is also common in international practice, the Committee is granted diplomatic immunities and privileges required for the implementation of its functions including the inviolability of its premises.[189] The employees of the Committee are independent from the CIS states and have the status of international civil servants.[190]

---

[183] Ibid, Par. 2.

[184] Ibid, Par. 3.

[185] Ibid, Par. 8.

[186] Ibid.

[187] Ibid.

[188] Ibid, Par. 9.

[189] Ibid, Par. 4.

[190] Ibid, Par. 15.

8.4 CIS Subsidiary Organs

A remarkable innovation, comparable only to a few other international organizations (most notably to the European Union), has been made in the CIS institutional framework in establishing its own parliamentary body – *the Interparliamentary Assembly*, a judicial body – *the Economic Court*, and (though still formally) an advisory body of humanitarian character – *the Commission on Human Rights*.

However, in difference to, e.g. the European Parliament and the European Court of Justice, these organs have purely consultative and recommendatory powers and do not exercise any substantial influence on the CIS principal organs. Another factor which emphasizes the intergovernmental character of these organs and clearly differentiates them from supranational bodies is the status of its members who are either deputies of their individual member states representing their national interests like in the case of the Interparliamentary Assembly or who formally enjoying an independent status are still may be influenced by the CIS states like the judges of the Economic Court.

8.4.1 Interparliamentary Assembly

The Interparliamentary Assembly (IPA) was formally established on March 27, 1992 as "an advisory body for the discussion of questions and the consideration of document drafts of mutual interest".[191] The Agreement was initially signed by seven CIS states: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan. In 1993–1995, the IPA was joined by Azerbaijan, Georgia and Moldova, in 1999 by Ukraine.

The CIS Charter confirmed the status of the IPA providing that the IPA "shall conduct interparliamentary consultations, discuss the questions of cooperation within the framework of the Commonwealth, and elaborate corresponding proposals".[192] Accordingly, the IPA was endowed with the implementation of the following main functions: (1) to elaborate model legislative acts with the purpose of unification and harmonization of national legislations of the CIS countries and also (2) to issue recommendations regarding the rapprochement of the national legislations.[193]

The Assembly consists of the parliamentary delegations of the state parties,[194] which are composed of the representatives who are either elected or appointed by the parliaments of the state parties according to their domestic regulations and procedures.[195]

---

[191] Agreement on the IPA (Mar. 27, 1992), Art.1.

[192] CIS Charter (Jan. 22, 1993), Art. 36.

[193] Convention on the Interparliamentary Assembly (May 26, 1995), Art. 4. In the period of 2002–2007, the IPA adopted more than 200 model codes and laws. See *15-letie MPA SNG: Itogi i Perspektivy,* <http://www.iacis.ru/html/?id = 91>(last visited Dec. 1, 2007).

[194] Ibid, Art.3 (1).

[195] Ibid, Art. 3 (2).

Regular sessions of the IPA are conducted no less frequently than two times a year.[196] Decisions are adopted only on the basis of consensus of parliamentary delegations, which each have one vote, in the form of declarations, appeals, recommendations, proposals and memorandums; on the procedural issues, the IPA may also adopt resolutions.[197]

The Assembly's activities are organized and supervised by its Council which is composed of the chiefs of the parliamentary delegations. The Council elects its own Chairperson by a simple majority from among its members for one-year term who may be reelected but may not serve more than three times in a row.[198] The Council has also its own Secretariat, a permanent administrative organ which provides technical assistance to the IPA[199] and exercises the privileges of the IPA allowing it to conclude international treaties within the limits of its competence[200] and to enjoy the rights of a legal entity on the territories of the state parties.[201]

8.4.2 Commission on Human Rights[202]

The Commission on Human Rights was formally established by the CIS Charter which provided that the Commission "shall be a consultative body of the Commonwealth and shall supervise the observation of obligations on human rights assumed by the member states within the framework of the Commonwealth".[203] The CIS Charter also determined that the Commission would function on the basis of its Regulations which were adopted by the CHS on September 24, 1993.

On the same day, September 24, 1993, the CHS adopted a Declaration on the International Obligations in the Field of Human Rights and Fundamental Freedoms. In this document the CIS countries undertook (1) to comply with the international obligations entered into by the former USSR with respect to human rights and fundamental freedoms; (2) to bring their legislations in conformity with the international standards, in particular with those adopted in the framework of the CSCE; and (3) to elaborate and to adopt a CIS convention on human rights and freedoms. The adoption of this Declaration was initiated by Russia for which the issue of human rights acquired a special significance, since after the dissolution of the

---

[196] Ibid.

[197] Regulations of the IPA (Sep. 15, 1992), Pars. 13, 14.

[198] Convention on the Interparliamentary Assembly (May 26, 1995), Art. 9.

[199] Ibid, Art. 10, 11.

[200] Ibid, Art. 12. The IPA has concluded almost twenty agreements on cooperation, in particular with the Parliamentary Assemblies of the OSCE, the Council of Europe and the Western European Union, with the Central American Parliament, the Latin American Parliament, most recently with the Pan-African Parliament etc.

[201] Ibid, Art. 13.

[202] On the provisions regarding the dispute settlement procedure in the framework of the Commission, see *infra* in subchapter 9.2.

[203] CIS Charter (Jan. 22, 1993), Art. 33.

USSR, 43 million people (15% of the total USSR population) found themselves outside their titular states (among them more than 25 million Russians). Their protection became a matter of concern for Kremlin.

On May 26, 1995, seven CIS countries (Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Russia and Tajikistan) signed the CIS Convention on Human Rights and Basic Freedoms which provided an extensive list of both civil and socio-economic rights and freedoms and charged the Commission on Human Rights (its Regulations became "an indispensable part" of the Convention) with the task of the supervision over its provisions. Thus, unlike the European or Inter-American conventions, the CIS Convention did not establish a court to adjudicate human rights grievances. Still many of the CIS countries were not willing to commit themselves to anything more than mere declaratory statements. In particular, the countries with significant Russian populations like Ukraine and Kazakhstan did not even sign the CIS Convention on Human Rights and Basic Freedoms.

Both the Convention and the Commission's Regulations entered into force simultaneously on August 11, 1998 and comprise along with the CIS Charter the legal foundation for the Commission's activities. However, since the CIS Convention on Human Rights and Basic Freedoms of 1995 was ratified only by four countries (Belarus, Kyrgyzstan, Russia and Tajikistan), and two of which (Belarus and Kyrgyzstan) subsequently failed to send their representatives to the body,[204] the Commission on Human Rights did not start its activities.

Once operative, the Commission would consist of one representative and his/her deputy from each state party "who are citizens of the state parties having high moral characteristics and recognized competence in the field of human rights".[205] The Commission would conduct closed meetings, if not otherwise decided by a majority of the Commission's members.[206] The meetings would be chaired by a representative of one of CIS states on a rotating basis according to the Russian alphabetic order.[207]

The Commission would take its decisions by a majority of two-thirds of its members in the form of understandings, opinions and recommendations. These decisions which constitute in principle authoritative interpretations on the merits of the cases brought before the Commission would subsequently be sent by the CIS Executive Committee to each of the state parties.[208] Also, the Commission would provide an annual report on its activities to the CHS.[209]

---

[204] See *Svedeniya ob organakh Sodružestva Nezavisimykh Gosudarstv*, <http://cis.minsk.by/ main.aspx?uid = 2374>(last visited 26.11.2007).

[205] Regulations the Commission on Human Rights (Sep. 24, 1993), Part I, Pars. 1, 2.

[206] Ibid, Part I, Par. 5.

[207] Ibid, Part I, Par. 6.

[208] Ibid, Pars. 9, 10.

[209] Ibid, Par. 11.

8.4.3 CIS Economic Court[210]

The CIS Economic Court (hereinafter the Court) is a judicial organ of the CIS which was created in July 1992 "with a view of the maintenance of the uniform application of the agreements concluded by the participant states of the CIS as well as the economic obligations and contracts based on them by the resolution of disputes arising from economic relations".[211]

According to the Court's Rules of Procedure, the structure of the Court includes its boards, the full Court and the Plenum.[212] Moreover, the Court may operate at two levels: as a court of first instance and as an appellate court meaning that the decisions of the boards may be challenged in the Plenum.

Formally, the boards of the Court are established by the full Court from among the judges of the Court in the amount of three or five judges for the period of one year and are headed by their chairpersons who are elected by the full Court from among the judges of a respective board.[213] The main purpose of the boards is to hear all contentious cases in the first instance.[214]

The full Court consists of all judges of the Court[215] and renders advisory opinions.[216] Both in the boards and in the full Court, each of the judges has one vote and may not abstain; decisions are taken by a majority of the judges and in the event of a tie, the Chairperson has the casting vote. The quorum is considered to be secured if more than a half of judges take part in its proceedings.[217]

The Plenum of the Court is "the highest collective organ" of the Court consisting of the judges of the Court and the chairpersons of the highest economic (or commercial) courts of the state parties.[218] The Plenum serves as the appellate instance of the Court and reviews decisions of the Court's boards. In addition, the Plenum has the right to submit recommendations to the CIS states and organs aimed at removing conflicts among the domestic laws of CIS states and ensuring consistent practice in the implementation of CIS agreements.[219] The agenda of the Plenum is prepared by its Chairperson who is simultaneously the Chairperson of the whole Court together with the Plenum's secretary. The Plenum's quorum is

---

[210] On the jurisdiction and enforcement of judgments of the CIS Economic Court, see *infra* in subchapter 9.3.

[211] Statute the Economic Court of the CIS (July 6, 1992), Par. 1.

[212] Rules of Procedure of the Economic Court (July 10, 1997), Par. 8.

[213] Ibid, Pars. 9, 10.

[214] Ibid, Par. 108–115.

[215] Ibid, Par. 12.

[216] Ibid, Par. 116–150.

[217] Ibid, Pars. 11, 12.

[218] Ibid, Par. 13.

[219] Regulations on the Economic Court of the CIS (July 6, 1992), Par. 10.

constituted by a majority of two-thirds of members. The Plenum also takes decisions by a majority of its members; however, in case of a tie, the decision is deemed to be rejected. The decisions of the Plenum are final and are adopted in the form of a resolution.[220]

With respect to the membership composition, the Court consists of the equal number of judges (up to 2) from each of the state parties of its Statute (which are currently eight CIS countries: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan and Uzbekistan).[221] As a result, the Court may theoretically operate with an even number of 16 judges. In addition, each member state may send one additional judge to the Plenum. This means that the full Plenum of the Economic Court may notionally have 24 judges – 16 permanent judges and eight additional chief justices of economic or commercial courts of member states.[222]

However, as of the present, the Court consists of merely five judges representing only five CIS countries: Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan, which fully reflects a rather insignificant volume of workload of this judicial body and consequently the corresponding degree of unwillingness on the part of the CIS states to solve their disputes through the Court.

Judges are appointed or elected according to the domestic procedures of the state parties for a term of 10 years with the possibility of reappointment or reelection. The candidates must have a higher juridical education and professional experience as members of economic or commercial courts or otherwise be experts of recognized competence. The Chairperson of the Court is elected by a simple majority of judges from among themselves and subsequently approved by the CHS for a term of 5 years.[223]

Although it was also provided that judges are independent and may not represent their national states,[224] it should be noted that they may be removed from office not by collective CIS organs, but by individual home states.[225]

---

[220] Rules of Procedure of the Economic Court (July 10, 1997), Par. 20.

[221] Ibid, Par. 7; Agreement on the Status of the Economic Court (July 6, 1992), Art. 2.

[222] Danilenko wrote in this regard that: "This rather unusual composition of the Court reflects the desire of the CIS states to build more confidence in the Court. Another justification for this approach may be the power of the Court to apply and interpret not only international law but also legislation of the former USSR and principles of domestic law of participating states". *The Economic Court of the Commonwealth of Independent States,* 31 N. Y. U. J. Int'l L. & Pol. 897 (1999).

[223] Regulations on the Economic Court of the CIS (July 6, 1992), Par. 7.

[224] Ibid, Art. 8.

[225] Ibid, Par. 7.

9 Dispute Settlement in the Framework of the CIS

9.1 Generally

Peaceful settlement of disputes and conflicts among CIS states has been proclaimed to be one of the major goals of the Commonwealth.[226] The CIS Charter specifically mentioned that:

> The member states shall take all the possible measures to prevent conflicts, giving priority to those on inter-ethnic and inter-confessional grounds, which are likely to entail the violation of human rights. On the basis of mutual accord they shall render each other assistance in settlement of conflicts, including those within the framework of international organizations.[227]

Accordingly, the CIS states pledged themselves to refrain from actions, which are likely to cause losses to other member states and result in the aggravation of eventual disputes.[228] Moreover, they obliged "in good faith and in the spirit of cooperation do their utmosts for fair and pacific settlement of their disputes by means of negotiations or for the achievement of the agreement on the proper alternative procedure of the settlement of the dispute".[229]

Should the CIS states fail to resolve a dispute through these means, they may refer the matter to the CHS which may at any stage of the dispute recommend to the parties "an appropriate procedure, or methods, for settling a dispute the continuation of which could threaten the maintenance of peace and security within the Commonwealth".[230] Thus, the above provisions emphasize that the settlement of disputes in the framework of the CIS is primarily the responsibility of its member states and the supreme organ of the organization – the CHS.[231]

---

[226] CIS Charter (Jan. 22, 1993), Art. 2.

[227] Ibid, Art. 16.

[228] Ibid, Art. 17.

[229] Ibid.

[230] Ibid, Art. 18.

[231] In this regard, it is interesting to quote Art. 19 (1) of the CIS Agreement on the Establishment of an FTA of 1994: "Any disputes and disagreements between the contracting parties concerning the interpretation and/or application of provisions of this Agreement, as well as other disputes affecting rights and obligations of the Contracting Parties under this Agreement or in connection with it, shall be settled in the following way: (1) the interested Contracting Parties conduct immediate consultations between each other or by mutual consent with the participation of representatives of other Contracting Parties; (2) within the framework of a special conciliatory procedure (by creating working parties to study materials of dispute and work out recommendations); (3) in the Economic Court of the CIS; (4) within the framework of other procedures provided by international law.

Nevertheless, the CIS Charter foresaw also the establishment of (1) the Commission on Human Rights which was intended to perform to some extent a judicial function by settling disputes between CIS countries in the field of human rights and (2) the CIS Economic Court – a judicial body designed to ensure the implementation of economic obligations of the CIS countries. This subchapter will provide an overview of the dispute-settlement procedures applied (or intended to be applied) in these CIS institutions.

9.2 Commission on Human Rights

According to the Regulations on the CIS Commission on Human Rights, any of the state parties of the CIS Convention on Human Rights and Basic Freedoms of 1995 would have the right to bring any issue on alleged violation of human rights by other state parties before the Commission on Human Rights.

However, the Commission would start proceedings only upon the completion of the following preconditions: (1) the complaining state must have submitted its written inquiry on the certain issue related to the violation of human rights to a particular state party; (2) the issue on which the inquiry has been submitted must remain unsolved for more than six months; (3) after that, the complaining state party must have notified the defending party on its intention to submit the issue to the Commission.[232] Furthermore, the Commission would consider the delivered issue only after ascertaining that all domestic means of the legal protection were exhausted and only 6 months after such exhaustion.[233]

The Commission would have the right to request the state parties to submit any information related to the issue. The concerned state parties would either have to provide such information or "in the case of refusal, to give a substantiated reply".[234] The Commission would be also able, with the consent of the concerned parties, to appoint a special conciliatory subcommission which would exclude from its composition citizens of the concerned parties and deliver its conclusion to the Commission for the subsequent forwarding to the concerned parties.[235]

The Commission would also be empowered to consider individual and collective appeals of any persons and non-governmental organizations on the issues related to the violations of human rights in any of the state parties.[236] However, in doing so, the Commission would not consider any appeal before ascertaining that (1) the delivered issue is not being considered by another organ of international dispute-settlement; (2) domestic means of the legal protection were fully exhausted

---

[232] Regulations the Commission on Human Rights (Sep. 24, 1993), Part II, Pars. 1, 2.

[233] Ibid, Part II, Par. 3.

[234] Ibid, Part II, Par. 4.

[235] Ibid, Part II, Par. 5.

[236] Ibid, Part III, Par. 1.

more than 6 months ago at the moment of the appeal; and (3) the appeal is not anonymous.[237]

Although the above procedures contain no enforcement rules and the decisions of the Commission are intended to be non-binding for the state parties, making in this regard this CIS organ similar to the Human Rights Commission established under Art. 41 of the International Covenant on Civil and Political Rights (ICCPR), the overwhelming majority of the CIS countries refused to participate in it. The major reason is that they were afraid that their participation could hypothetically result in political pressure to remedy the alleged violation of human rights. It should also be noted that only three CIS countries (Belarus, Russia and Ukraine) made optional declarations accepting the possibility of interstate complaints under Art. 41 of ICCPR.

9.3 CIS Economic Court

9.3.1 Contentious Jurisdiction

Generally, the jurisdiction of the CIS Economic Court is divided between the jurisdiction in contentious cases and the jurisdiction to give advisory opinions.

According to the CIS Charter, the Court's principal objective is to "ensure the implementation of economic obligations within the framework of the Commonwealth".[238] In order to achieve that objective, the Court has been granted jurisdiction over (1) "disputes arising in connection with implementation of economic obligations" and (2) "other disputes referred to its jurisdiction by agreements between member states".[239]

Accordingly, the Court may deal only with interstate economic disputes arising from CIS agreements,[240] which means that it cannot resolve disputes that do not result from "economic obligations" or that do not involve the CIS states as such.[241] Moreover, the interstate economic disputes are resolved by the Court only "pursuant to a petition

---

[237] Ibid, Part III, Par. 2.

[238] CIS Charter (Jan. 22, 1993), Art. 32.

[239] Ibid.

[240] Thus, the Court ceased proceedings in the case based on the claim raised by the Government of Moldova against the Government of Kazakhstan on improper fulfillment of economic obligations and recovery of debt for executed work since no intergovernmental agreement had been signed by the above parties. See Decision of the CIS Economic Court No. C-1/16–96 (Feb 6, 1997). See texts of the Court's enactments in *Resheniya Ekonomicheskogo Suda SNG*, <http://sudsng.org/decree/ judstat/des>(last visited Dec. 1, 2007).

[241] For example, the Court refused to initiate proceedings on an economic dispute brought by a Russian territorial unit (Nižegorodskaya oblast) against a territorial unit of Kazakhstan (Taldykurganskaya oblast). See Decision of the CIS Economic Court No. C-1/8–96 (Apr. 9, 1996). Further, the Court turned down starting proceedings on claims raised by private companies. See decisions of the CIS Economic Court No. 01–1/3–2000 (June 7, 2000) and No. 01–1/5–03 (Nov. 19, 2003).

submitted either by the interested states acting through their competent organs [which means those having plenipotentiary powers] or by organs of the Commonwealth".[242]

Further, it was set forth that the Court's jurisdiction is compulsory for the state parties of the Agreement on the Status of the Economic Court of 1992 which are the following eight CIS countries: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan and Uzbekistan.[243] In this regard, it should be noted that another major power of the Court is also its competence to determine whether a matter brought before it is properly within its jurisdiction.[244] Thus, although compulsory jurisdiction was not established with respect to other CIS participant states (which are not the state parties to the Agreement of 1992), the Court ruled in one of its resolution that if the CIS states would conclude agreements containing "compromissory clauses" the Court would be open not only to the state parties to the Agreement of 1992, but also to all other CIS states.[245]

An important CIS agreement containing a "compromissory clause" was, e.g. the Treaty on the Establishment of the Economic Union of 1993,[246] the Art. 31 of which provided on the one hand that "the contracting parties pledge to resolve their disputes in respect to interpretation and implementation of the present Treaty by means of negotiations or through the Economic Court of the CIS",[247] but on the other hand stated that "if the contracting parties fail to resolve their disputes by means of negotiations or through the Economic Court of the CIS, they have agreed to resolve them in other international judicial bodies in accordance with their respective rules of procedure".[248]

The Court made an attempt to reconcile the above mentioned provisions of the Treaty on the Establishment of the Economic Union of 1993 issuing another advisory opinion where it stipulated that under Art. 31 states parties to the Treaty of 1993 "have no right to resort to other international judicial organs without first turning to the Economic Court", and that they may turn to other international judicial organs only if it is not possible to resolve their differences through the Court. Further, the

---

[242] Regulations on the Economic Court of the CIS (July 6, 1992), Par. 3. Thus, the Court also refused to initiate proceedings pursuant a claim of the Belarusian Ministry of Internal Affairs against the Ministry of Internal Affairs of Moldova saying that the Belarusian Ministry "must have proper authorities from the Government of Republic of Belarus and the preliminary consent of the Government of Moldova", since Moldova signed the Agreement on the Status of the Economic Court of 1992 only with reservation requiring its consent on the contentious jurisdiction of the Court. See Decision of the CIS Economic Court No. 01–1/4–2000 (Dec. 13, 2000).

[243] Regulations on the Economic Court of the CIS (July 6, 1992), Par. 4. Moldova made a reservation saying that disputes may be submitted to the Court only by mutual consent of states.

[244] According to the Rules of Procedure of 1997, disputes as to whether the Court has jurisdiction are "settled by the Economic Court (chamber, full Court, the Plenum)". See Rules of Procedure (July 10, 1997), Art. 26.

[245] Resolution of the CIS Economic Court No. C-1/1–97 (Nov. 11, 1997).

[246] Discussed *infra* in subchapter 11.3.

[247] CIS Treaty on the Establishment of an Economic Union (Sep. 24, 1993), Art. 31 (1).

[248] Ibid, Art. 31(4).

Court ruled that the state parties have no right to challenge decisions of the Court in other judicial organs.[249] Finally, the Court pointed out that Article 31 (1) establishes compulsory jurisdiction of the Court for members of the Economic Union with respect to disputes concerning interpretation and implementation of the Treaty of 1993 and stressed that although contesting states may always resort to negotiations, failure to negotiate does not preclude unilateral resort to the Economic Court.[250]

It should also be noted that the Treaty of 1993 provided that if the Court would find that a member state of the Economic Union "has failed to fulfill an obligation under the present Treaty, the state shall be required to take necessary measures to comply with the judgment of the Economic Court",[251] apparently giving the Court the power to render legally binding judgments with respect to states parties of the Treaty.[252] Moreover, in it opinion No. C-1/19–96, the Court endorsed this interpretation of Article 31 holding that "judgments of the Economic Court are binding on the member states of the Economic Union".[253]

In this regard, Danilenko wrote that "this opinion indicates that the Economic Court regards the legal order of the CIS Economic Union as a self-contained regime that not only regulates rights and duties of participating states, but also establishes effective procedures for determining and adjudicating possible disputes".[254]

Furthermore, it should be noted that especially in 1994–1997 there were many proposals to widen the Court's limited jurisdiction by giving it the power to resolve not only economic disputes but also other kinds of disputes, including disputes involving the legality of CIS acts, territorial disputes, human rights disputes, disputes between the CIS and its participant states, and disputes involving private parties.[255] Also, the Court itself made an attempt to take a broad approach and defined the concept of "economic obligations" as obligations concerned with "material benefits that have monetary value", noting also that such "economic obligations" are assumed by the CIS states not only "in the sphere of trade, production, finance, or transport" but also when cooperating in "humanitarian, ecological, cultural, and other spheres".[256]

It is not surprising that the attempts to increase the role of the Court in the CIS institutional framework coincided with efforts to create a CIS Economic Union. Exactly in this period of time, following the creation of the Interstate Economic Commission (the first CIS organ endowed with certain supranational powers),[257]

---

[249] Advisory opinion of the CIS Economic Court No. C-1/19–96 (May 15, 1997).

[250] Ibid.

[251] CIS Treaty on the Establishment of an Economic Union (Sep. 24, 1993), Art. 31 (1).

[252] See Danilenko, *The Economic Court of the Commonwealth, supra* at 915.

[253] Advisory opinion of the CIS Economic Court No. C-1/19–96 (May 15, 1997).

[254] Danilenko, *The Economic Court of the Commonwealth, supra* at 901.

[255] See Kleandrov, Ekonomicheskii Sud SNG: Status, Problemy, Perspectivy 118–169 (1995).

[256] Resolution the CIS Economic Court No. C-1/1–97 (Nov. 11, 1997).

[257] Discussed *infra* in subchapter 11.3.3.

there were proposals to transform the Court into a supranational judicial body – a Court of Justice of the CIS, with extensive powers having mandatory jurisdiction over disputes of any nature.[258]

The consequent implementation of the Treaty on the Economic Union could lead to a greater prominence of the Court. However, neither the progress of integration processes in the framework of the Economic Union nor consequently the transformation of the Economic Court into a CIS Court of Justice turned out to be viable. As a result, the same as the CIS Economic Union itself,[259] the idea of a strong CIS judicial body never materialized.

During the time of its operation (since 1994), the Court has passed merely eight rulings with respect to the disputes under its contentious jurisdiction. In five of them, the Court just decided to refuse initiating any actions or to cease proceedings. Accordingly, the Court pronounced only three judgments on improper fulfillment of economic obligations and recovery of damages (all of them against Republic of Kazakhstan, with the last judgment dated by October 3, 1996).[260] This matter of fact fully reflects both the lack of political will of the CIS countries to transform the Court into a constitutional court of the kind of the ECJ and also their generally insufficient commitment to rule of law.

9.3.2 Advisory Jurisdiction

In addition to its contentious jurisdiction, the Court has also been granted advisory jurisdiction. It should be noted that, as of the present, interpreting the norms of CIS agreements became the major activity of the Court. Eighty of totally 88 enactments of the Court adopted in the period of its existence are advisory opinions.[261]

Under the Regulations of 1992, the Court is authorized to rule on the interpretation of "the provisions of agreements and other acts of the Commonwealth and its institutions", as well as of "the legislative acts of the former USSR which apply within the time limits defined by the mutual agreement [of the parties]".[262] On the other hand, according to the CIS Charter, the Court may interpret the provisions of "agreements and other acts of the Commonwealth on economic issues".[263]

From a legal point of view, a very important issue in this area is the possibility that the Court could provide an authoritative interpretation of the CIS establishing

---

[258] See Kleandrov, *Nestandartnye Spory v SNG – Komu Ikh Razreshat?,* Gosudarstvo i Pravo 146 (No. 10, 1995).

[259] The CIS Treaty on the Economic Union was not implemented and expired in January 2004.

[260] See Resolutions of the CIS Economic Court No. 03/94 (Dec. 14, 1994), No. 04/95 (Mar. 30, 1995), and No. C-1/15–96 (Oct. 3, 1996).

[261] On the enactments of the CIS Economic Court, see *Resheniya Ekonomicheskogo Suda SNG*, <http://sudsng.org/decree/judstat/des>(last visited Dec. 1, 2007).

[262] Regulations on the Economic Court of the CIS (July 6, 1992), Par. 5.

[263] CIS Charter (Jan. 22, 1993), Art. 32.

documents and in particular the CIS Charter. As seen above, while the CIS Charter refers only to "agreements…on economic issues", the Regulations do not limit the advisory jurisdiction of the Court to economic matters allowing requests for advisory opinions on the interpretation of "any CIS agreements or acts". Thus, legal documents do not provide a definite answer to the question whether or not the Court is authorized specifically to interpret the CIS establishing documents.

In this regard, it should be noted that the Court attempted, the same as with respect to the contentious jurisdiction, to take a broader approach to its advisory jurisdiction using every opportunity to enhance its jurisdictional bases and powers,[264] rendering several advisory opinions on non-economic issues[265] and most remarkably issuing also an advisory opinion on the legal status of the CIS and its international legal personality.[266]

9.3.3 Major Problem: Impossibility of Judgment Enforcement

The above-mentioned developments indicate that the CIS Economic Court sought a more prominent role in CIS integration generally and dispute settlement in particular. However, the Court's legal underpinnings were not strong enough to support this kind of judicial engagements. In this respect, the most difficult problem was the fact that the Court lacked any effective means for enforcement of its judgments.[267]

Although the Court's jurisdiction is compulsory, its judgments, however, are not legally binding. The Regulations of 1992 provide that "based on the results of the dispute consideration, the Court shall take a decision…in which measures shall be determined to be recommended for a relevant state for the purpose of the elimination of the violation and its consequences".[268] Thus, the Court may only issue recommendations to contesting states which, the same as advisory opinions, do not have any binding legal force. In this regard, Kirilenko and Mishalchenko noted that

---

[264] In resolution No. C-1/1–97 the Court found that it is open not only to states parties to its Regulations of 1992 but to all CIS states. The opinion No. C-1/19–96 held that states parties to the Treaty on the Economic Union of 1993 "have no right to resort to other international judicial organs without first turning to the Economic Court." In addition, despite of the requirements of the Regulations of 1992 that only the highest legislative and executive organs of member states, their highest commercial courts, and CIS institutions may request the Court to give advisory opinions, the Court considered requests for advisory opinions from other actors in cases No. 07/95 and No. C-1/2–96.

[265] See, e.g. in the case No. C-1/14–96 dealing with the interpretation of the concept of a "refugee" or in the case No. C-1/13–96 dealing with the interpretation of the CIS Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Cases (Jan. 22, 1993).

[266] See *supra* note 102.

[267] Under the Regulations, the losing states themselves are required to "ensure the enforcement" of the judgment. Regulations on the Economic Court of the CIS (July 6, 1992), Par. 4.

[268] Ibid, Par. 5.

"it is doubtful that a state which did not implement a norm of the CIS law would implement a recommendatory decision of the CIS Economic Court".[269]

Theoretically, the issue of non-observance of the judgment may be referred by an interested state to the CHS. However, even the CIS supreme political organ does not have the power to enforce judgments being able only to recommend a particular method of dispute-settlement. Further, its powers are weakened by the consensual nature of its decisions which means that the losing party can always veto a CHS decision which does not suit its interests. In this regard, Danilenko wrote that the CIS states "did not feel the need to grant powers to the Economic Court because they felt sufficiently protected by their right of veto guaranteed by the consensus rule that governs the decision-making procedure of practically all organs of the CIS".[270] As a result, the non-binding nature of judgments and the impossibility of their enforcement allow losing states to ignore the rulings of the Economic Court.[271]

10 Military-Political Cooperation in the CIS

10.1 Initial Phase

As discussed above, in the original agreements signed in Minsk and Alma-Ata on December 8 and 21, 1991, the founders of the Commonwealth have agreed mainly on the broad strokes of their new association, with critical details on the military, economic and other controversies still remaining for later meetings. However, the problems were so urgent that the CIS participant states had to turn their attention back to many critical issues left unresolved when they agreed to establish the CIS. The major problem was obviously connected to the military matters, namely to the fate of the most formidable orphan of the USSR, the Soviet military machine and its nuclear arsenal.[272]

---

[269] Kirilenko & Mishalchenko, *Pravo Sodružestva Nezavisimykh Gosudarstv v Sisteme Meždunarodnogo Prava, supra* at 129.

[270] See Danilenko, *The Economic Court of the Commonwealth, supra* at 915–916.

[271] For example, in one of its first judgments (Case No. 03/94), the Court found that Kazakhstan violated its obligations under the Agreement on Principles of Trade and Economic Cooperation of 1991 concluded with Belarus. The Court issued a recommendation to Kazakhstan to remedy the situation within three months; however, Kazakhstan, though admitting the breach of obligations, refused to comply with the decision. Danilenko wrote that "although the judgment of the Economic Court strengthened the bargaining posture of Belarus in subsequent negotiations, the refusal of the losing party to comply with one of the first judgments of the Court was a major setback to the newly established judicial organ of the CIS". See Danilenko, *The Economic Court of the Commonwealth, supra* at 908.

[272] Although there was no longer the Soviet Union, there was still the Soviet armed force of about 4 million servicemen, more than 10,500 combat aircraft and 162 strategic bombers, 56,000 battle tanks, nearly 65,000 armored vehicles, nearly 90,000 artillery guns, more than 700 surface ships, 59 submarines, approximately 10,000 long-range nuclear warheads and twice as many shorter-range ones. See Izvestiya (29.12.1991).

After intensive disputes,[273] on December 30, 1991 in the framework of the CIS two major agreements in the military sphere were concluded: first, the Agreement on the Strategical Forces and second, the Agreement on the Armed Forces and Border Troops.

The first Agreement provided that "the CIS participant states shall recognize the necessity of a joint command of the strategic forces and of the maintenance of a single control over nuclear weapons and other weapons of mass destruction of the Armed Forces of the former USSR",[274] basically meaning that the strategic forces may not be divided between the former Soviet republics and would be maintained under the Russian control. In this regard, the Agreement initially explicitly referred to the Strategic Forces not only the forces bearing direct relationship to the weapons of mass destruction but also the Air Forces, the Navy, Anti-Aircraft Forces, Airborne Forces, etc. (the precise list of such forces was supposed to be determined by a separate protocol for each state specifically).[275]

Second, the CIS participant states also signed an Agreement on the Armed Forces and Border Troops in which they agreed that "the CIS participant states shall confirm their legal right on the creation of their own armed forces".[276] It was also agreed by most of the CIS participant states to establish on a temporary basis the so called "Joint Armed Forces". Despite the rejection of initial Russian proposals to create "United" instead of "Joint Armed Forces" and that the Russian Defense Minister should also be Commander in Chief of those Armed Forces, some republics (especially Ukraine, Azerbaijan and Moldova) remained determined to create their own armed forces as soon as possible. Thus, since 1992 the process of the dismantling and apportioning started of what used to be the largest standing army in the world. At the same time, various details remained unclear, particularly the question of how the former republics might share units and equipment of the huge Soviet military force.

As early as January 3, 1992 the Ukrainian leadership claimed jurisdiction over all non-strategic forces on Ukrainian territory, and drew up an Ukrainian oath for them to swear. From these declaratory beginnings there developed the dispute over the possession of the Black Sea fleet, with Ukraine and Russia differing what constituted its non-strategic elements. Another complication in Ukrainian-Russian relations was the dispute over the status of the Crimea, where the fleet's chief base, Sevastopol, was

---

[273] Yeltsin and Shaposhnikov, the last Minister of Defense of the Soviet Union and later the first (and the last) Commander-in-Chief of the CIS (until September 1993), supported the concept of a single, combined CIS armed forces (or a "single CIS defense space"). But Kravchuk, in particular, viewed any talk of a unified army as tantamount to the restoration of the USSR and an insupportable breach of sovereignty of the newly independent states; thus, Ukraine quickly assumed leadership of a small bloc of CIS states that insisted on building their own armies (including Moldova and Azerbaijan). See Brzezinski & Sullivan, Russia and the Commonwealth of Independent States, *supra* at 441.

[274] CIS Agreement on the Strategical Forces (Dec. 30, 1991), Art.3.

[275] Ibid, Art.1.

[276] Agreement on the Armed Forces and Border Troops (Dec. 30, 1991), Art.1.

situated and where the largely Russian population occasionally demonstrated separatist sentiments. Moreover, significant differences over such issues as the division of assets of the former USSR considerably hindered relations between Ukraine and Russia and slowed down any integration attempts between these countries. Azerbaijan and Moldova, where the early years of independence were overshadowed by Nagorno-Karabakh and Trans-Dniester conflicts respectively and which distrusted Russia because of the Russian support to the secessionists who consolidated control over those regions, also refused any idea of the "Joint Armed Forces" with Russia.

As with respect to the other republics which joined the "Joint Armed Forces", their intention to follow a similar, though less urgent course to the establishment of their own armed forces was unveiled and evident. For all of them, the newly achieved national sovereignty in many regards meant escaping from existing relationships, long dominated by Russia, and establishing independent security policies and national armies.[277]

Russia's own military policies were not uncontroversial. On the one hand, on February 14, 1992 Agreements on the General Purpose Forces [or non-strategic forces] and on the Council of Defense Ministers were signed by all CIS countries except for Azerbaijan, Moldova and Ukraine. Further, on March 20, 1992 the same parties endorsed Agreements on the Joint Armed Forces and on the High Command of the Joint Armed Forces along with several other specific agreements on the military issues.

On the other hand, already on May 8, 1992 President Yeltsin issued a decree forming a separate Russian Army with himself as Commander-in-Chief (so far only Ukraine, Moldova and Azerbaijan had firmly declared their intention of forming armed forces).[278] The decision of Russia to set up its own armed forces was immediately followed by the leaders of all other republics irrevocably writing off the plans of those who still hoped on an united defense system. Although on July 6, 1992 five CIS members (Armenia, Kazakhstan, Russia, Tajikistan and Uzbekistan) signed an Agreement on the Joint Armed Forces Chief Command and although the CIS Charter initially confirmed the status of this organ saying that "the Joint Armed Forces Chief Command shall rule the Joint Armed Forces as well as the groups of military observers and the collective peace-keeping forces in the Commonwealth",[279] on September 24, 1993, the CHS reorganized the Joint Armed Forces Chief Command into the Headquarter for Coordination of Military Cooperation in the

[277] The essentials of this policy were summed up by Belarusian leader Shushkevich who told that: "We have to start from the attributes of an independent state. And one of the attributes of an independent state is an army". See Krasnaya Zvezda (17.01.1992).

[278] As Yeltsin proceeded with radical market-oriented reform (known as "shock therapy", discussed *infra* in subchapter 11.1.) and the Russian population suffered widespread economic hardship as a consequence, the increasing differences between Yeltsin and the Russian parliament, particularly over the course of economic reforms, led to the dissolution of the latter in September 1993 and the subsequent attempt of the armed supporters of the rebellious parliament to seize power in October 1993. It was the newly established Russian Army which rallied to Yeltsin and forced the rebels' surrender.

[279] CIS Charter (Jan. 22, 1993), Art.30.

framework of the CIS[280] confirming the fact that the idea of Joint Armed Forces no longer existed.[281]

10.2 CIS Charter of 1993 on Collective Security and Military Cooperation

The CIS Charter devoted one of its major parts to the issues of the collective security and military-political cooperation, the core provision of which is that the CIS participant states "shall pursue the coordinated policy in the field of international security, disarmament, arms control and formation of armed forces".[282]

On the one hand, the CIS Charter took fully into account the fact of the formation of national armies. The CIS Charter provided that "the cooperation of member states…in the field of security and disarmament shall be organized by the way of mutual consultations".[283] Moreover, each state "shall independently undertake the necessary measures to ensure the stable situation in the external frontiers of the CIS members" and "shall coordinate the activities of their Frontier Troops on the basis of mutual concord".[284] Further, the cooperation between the CIS states was to be conducted only on the principle of sovereign equality and consensus. It was explicitly provided that the CHS "shall be the supreme organ of the CIS on the issues of defense and guarding of the external frontiers of member states" and the CHG "shall coordinate the military activities of the CIS".[285]

On the other hand, the CIS Charter provided that CIS countries would "maintain security in the Commonwealth, including that with the help of groups of military observers and of collective peace-keeping forces".[286] Also, it reiterated the main terms of the Collective Security Treaty of 1992[287] providing that:

---

[280] The Headquarter served as a working organ of the CIS Council of Defense until Jan. 1, 2006 when it was abolished on the basis of a CHS' decision; its functions in the framework of the CIS were transferred to the CDM's Secretariat. At the same time, it should also be noted that the Headquarter was basically replaced by the CSTO Joint Staff (discussed *infra* in subchapter 15.8.3.).

[281] Shaposhnikov declared in June 1993 that "the Commonwealth's Joint Armed Forces have not been and will not be created", quoted in Sakwa & Webber, *The Commonwealth of Independent States, 1991–1998: Stagnation and Survival,* 51 Europe-Asia Studies 384 (1999).

[282] CIS Charter (Jan. 22, 1993), Art. 11.

[283] Ibid, Art. 14.

[284] Ibid, Art. 13.

[285] Ibid, Art.14.

[286] Ibid. In this regard, it should be noted that already on March 20, 1992 the CIS participant states signed an Agreement on Groups of Military Observers and Collective Forces for Peacekeeping in the CIS. This Agreement, subsequently supplemented by an Agreement on Collective Peacekeeping Forces and on Joint Measures of Their Material and Technical Maintenance of September 24, 1993 and its Protocol of February 10, 1995, built the legal foundation for the CIS peace-keeping missions in Abkhazia, South Ossetia and Tajikistan. For more details, see Nasyrova, *Regionale Friedenssicherung im Rahmen der GUS,* 64 HJIL 1077 (2004).

[287] Discussed *infra* in subchapter 32.1.

> "should the threat to sovereignty, security and territorial integrity of one or several member states or to international peace and security arise, the member states shall immediately employ the mechanism of mutual consultations to coordinate their positions and to undertake measures to eliminate this threat, including the peace-making actions and the use, in case of necessity, of the Armed Forces as the realization of the right for individual and collective self-protection pursuant to Article 51 of UN Charter".[288]

Accordingly, the CIS Charter was another attempt to preserve a single military-political space on the territory of the former Soviet Union. However, Turkmenistan and Ukraine never signed the CIS Charter and Moldova signed it only with reservations with respect to the military-political cooperation.

10.3 Development of Military-Political Cooperation in 1990s

The CIS Charter also provided that "concrete problems of military-political cooperation among member states shall be governed by specific agreements".[289] In this regard, numerous agreements were adopted in the framework of the CIS, the most important of them being the following.

Already on June 26, 1992 eight CIS countries (all except for Azerbaijan and Moldova) signed the agreement on the coordination of export control over raw materials, materials, equipment, technologies, and services used or capable of being used for the manufacture of weapons of mass destruction and missiles as well as their means of delivery. The states parties agreed to pursue coordinated export control policies, including the application of sanctions against all economic entities that would violate the export control requirements.

On September 9, 1994 all 12 CIS countries signed an Agreement on "Repairing of the Military Equipment and Hardware" which provided that such armament may freely (without customs formalities) go through the borders for the purpose of repairing; and also an Agreement on "Preferential Deliveries of the Military Equipment to the Border Troops of the CIS States" which provided that the producing states (most importantly Russia) would deliver the military equipment to the other state parties at their domestic prices. On November 3, 1995 also all CIS countries adopted two further Agreements on "Standardization of the Armament and Military Equipment" and on "Uniformity of Measurements in the Armed Forces".

However, on February 10, 1995 when an Agreement on "Establishment of the United Air-Raid Defense System" was adopted, it was signed without reservations

---

[288] Ibid, Art.12. In this regard, it should be noted, however, that with respect to the joint use of Armed Forces, the CIS Charter provided that the decision may be taken not only by the Council of Heads of States (as in the case of the Collective Security Treaty), but also "by the interested member states of the Commonwealth taking into consideration their national legislations".

[289] CIS Charter (Jan. 22, 1993), Art.15.

only by eight countries: Armenia, Belarus, Georgia,[290] Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan. Azerbaijan and Moldova refused to participate in scheme operated by a coordination committee attached to the CDM and chaired by the commander of the Russian Air-Raid Defense System *ex officio*. Two more state, which joined the Agreement, did so only with significant reservations: Ukraine saying that it agrees only "taking into account national legislation" and Turkmenistan only "on the basis of the bilateral agreement with Russia". Already on April 12, 1996, when the CHG took a Decision on Normative Documents on the United Air-Raid Defense, it was not signed by Turkmenistan (meaning the withdrawal of this country from the United Air-Raid Defense System) and Ukraine made a reservation saying "except for the term "United" throughout the text" (practically meaning the resolve to conduct cooperation with Russia only on the bilateral basis). On October 9, 1997, when the CHS adopted a Decision on "the Financing of the United Air-Raid Defense in the Year of 1998", the document was signed only by seven states (all of the initial participants except for Uzbekistan which also started distancing itself from Russia, criticising any multilateral efforts and admitting merely bilateral cooperation), practically meaning that only those countries decided to *de facto* integrate their air defenses into Russia's for being supplied in return with Russian military equipment. The same seven CIS countries also concluded on May 26, 1995 a Treaty on "Cooperation in Protection of Borders with the Non-Commonwealth States" which provided for coordination of protective measures and mutual assistance in safeguarding the inviolability of the CIS borders.

Nevertheless, even this number was ever decreasing. On June 4, 1999 when the CHG took a Decision on "Informational Security Strategy in the Military Sphere" which was supposed to be "the basis for the formation of a single informational space, as well as the elaboration and implementation of the measures for the maintenance of the informational security in the military sphere",[291] the document was signed only by six countries (now except for Georgia).

10.4 Latest Developments

On May 31, 2001 in the framework of the CHG, the remaining six countries (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan which next year became members of the Collective Security Treaty Organization – CSTO[292])

---

[290] Georgia, which previously took part in the United System only formally, officially terminated its participation in the Agreement as of May 15, 2008. See RIA Novosti (14.05.2008), http://rian.ru/politics/20080514/107324724.html (last visited May 15, 2008).

[291] CIS Strategy of the Informational Security in the Military Sphere (June 4, 1999), Par. 1.1.

[292] On the CSTO see *infra* in subchapters 15.6.-15.9.

adopted a Decision on "the Long-Range Plan of the Development of the Military Cooperation of the CIS Participant States until the Year of 2005". This document foresaw close cooperation of its signatories in the military-political (maintenance of peace and security, struggle against terrorism), the military (conducting joint maneuvers, further development of communication and air-raid defense systems), the military-technical (maintenance and modernization of military equipment), as well as the peace-keeping and humanitarian spheres.

On August 26, 2005, the above document was replaced by the "CIS Conception of Military Cooperation until the Year of 2010" which was adopted in the framework of CHS by the initial six countries and also by Uzbekistan which soon thereafter also joined the CSTO. The main directions of the military cooperation were determined by the Conception i.a. as further development of single military training and education, joint air-raid defense, joint programs on the technical modernization and maintenance of armed forces, joint programs on the production and reparation of military equipment, exchange of information, etc. The very name of the document "the CIS Conception" (and not "the CSTO Conception" which would be more accurate) shows that the aim of the military cooperation, as it is also clearly stipulated in the document, is "both the widening and deepening the military cooperation of the CIS participant states" and the establishment of "a single defense space in the framework of the CIS".[293]

The latest document adopted in the framework of the CIS on October 5, 2007, the Conception of the Further Development of the CIS declared that the maintenance of peace and stability and the cooperation in the sphere of security would be among the most important areas of interaction between the CIS countries. Further, the document reconfirmed that "the interested CIS states shall maintain and strengthen their military and military-technical cooperation".[294]

11 Economic Cooperation in the CIS

11.1 Initial Phase

The Soviet era international isolation from the most developed economies and the attempt to develop a powerful self-sufficient economy based on the system of state ownership and administrative planning had failed disastrously. After the collapse of the USSR, the still single Soviet economy was in a terrible state and all the newly emerged independent country faced a time of exceptional economic and political crisis that necessitated tough decisions and painful policies.

---

[293] CIS Conception of the Military Cooperation until the Year of 2010 (Aug. 26, 2005), Par. 1.1. and 2.2.

[294] Conception of the Further Development of the CIS (Oct. 5, 2007), Par. 4.6.

The response of the Russian leadership, which was in charge of the still existing Soviet Ruble and thus the entire post-Soviet economy,[295] was to launch a policy of rapid economic reform known as "shock therapy program" scheduled to begin already on January 1, 1992 (just a few weeks after the birth of the CIS). Although the immediate results of this policy included extremely high levels of inflation and the bankruptcy of much of the post-Soviet industry, the program also entailed significant strides toward developing a market economy by implanting basic tenets such as market-determined prices, removing legal barriers to private trade and manufacture, privatization of state enterprises and allowing foreign investment and imports into the markets of the CIS countries.

Even before the start of the reforms, Russia's political scene was very unstable and conflict-ridden. As the shock therapy proved exceedingly difficult to implement in Russia, the new economic program quickly became the object of intense political struggles between the Russian government and the Communist-dominated legislature. Although other post-Soviet republics, and especially Ukraine, argued that they were not prepared for what was euphemistically termed "price liberalization" (and the failure to raise prices to Russian levels would send their goods flowing to Russia), Russian government countered that any further delay would only encourage the Communist opposition to mobilize more resistance. After Ukraine failed to get Russia to postpone the price changes, the government in Kiev, as an emergency measure, started in January 1992 issuing coupons for the purchase of state-supplied goods, and indicated that these would be the start of an eventual transfer to an Ukrainian currency.[296]

11.2 Disintegration of the Ruble Zone

11.2.1 CIS Agreements on Economic Matters of 1992

The newly-sovereign CIS countries were obviously intent to establish their own national independent economies. This is not say, however, that the former Soviet republics, the economic output of which was continuingly declining, made no efforts

[295] The day before the Alma-Ata meeting [on December 20, 1991], where, the CIS countries agreed, among others, to preserve the ruble as the single monetary unit throughout the territory of the CIS, the Russian Federation Supreme Soviet Presidium adopted a resolution on the practically immediate liquidation of the Gosbank [Soviet Central Bank] and the transfer of its premises, documents, and specialists to the control of the Russian Central Bank.

[296] Ukrainian President Kravchuk said: "The ruble zone can turn into a fiction; we could find ourselves in the ruble zone without any rubles", complaining that Russia, which controlled the ruble printing presses, had not been shipping enough currency to cover rising expenses in other republics. At the same time, the Uzbek president Karimov said that "time alone will show how long the new Commonwealth will live", adding that he did not intend to copy Russian economic reforms. See New York Times (29.12.1991).

to preserve the numerous economic links inherited from the USSR. Thus, on February 14, 1992 all the CIS countries adopted an Agreement on "the Regulation of Mutual Relations between the CIS Members in the Sphere of the Trade-Economic Cooperation in the Year of 1992" which reflected all the complications and contradictoriness of the transitional period. On the one hand, the state parties agreed to build mutual relations in the framework of the CIS on the basis of market economy and mutual profit,[297] and to abstain from the actions which would cause economic detriment to each other.[298] It was also agreed to allow free transit of goods and services,[299] to eliminate double or multiple taxation,[300] to conduct coordinated customs policies[301] and not to implement non-tariff restrictions in mutual trade[302] along with some other provisions aimed at the preservation of the existing economic ties. On the other hand, they agreed also not to re-export the goods subject to the quoting and licensing (primarily the oil and natural gas obtained form Russia at prices significantly below the market level)[303] and to take measures for ensuring that the goods in interstate trade relations would be delivered in the amount of no less than 70% of the level of 1991.[304] These provisions evidently show that the CIS states generally were still state-managed economies which just began their transformation into economies based on market mechanisms and principles. Further, although the Agreement reconfirmed the provisions of the CIS establishing agreements to preserve the Ruble as the single monetary unit on the territory of the CIS, the document also foresaw measures connected to the possibility of the introduction of national currencies by the state parties,[305] thus giving an account to the fact that even at that time at least some CIS members firmly decided to introduce their own national currencies.

The on-going process of the gradual disintegration of the Ruble Zone was also reflected by two other CIS Agreements adopted in 1992. *First,* an Agreement "on the Protection of Interests of the Ruble Zone States in the Case of Introduction by Some CIS States of their own Currencies" of July 6, 1992 contained provisions that all the CIS countries would notify each other in advance (at least three months ahead of time) on the forthcoming introduction of a national currency[306] and in this regard would implement together with the Russian Central Bank and the central banks of other CIS countries a number of measures connected to the mutual payments and

---

[297] Ibid.

[298] Agreement on the Regulation of Mutual Relations between the CIS Members in the Sphere of the Trade-Economic Cooperation in the Year of 1992 (Feb. 14, 1992), Art. 1.

[299] Ibid, Art. 3.

[300] Ibid, Art. 4.

[301] Ibid, Art. 12.

[302] Ibid, Art. 5.

[303] Ibid, Art. 10.

[304] Ibid, Art. 7.

[305] Ibid, Art. 2.

[306] Agreement on the Protection of Interests of the Ruble Zone States in the Case of Introduction by some States of their own Currencies (July 6, 1992), Art. 1.

the exemption of the Ruble from their territories.[307] *Second,* on October 9, 1992, only nine CIS countries, all except for Ukraine and Azerbaijan,[308] signed an Agreement "on the Single Currency System and the Concerted Monetary and Exchange Policy" which provided that "the single legal tender [on the territories of the CIS countries] shall be the Ruble",[309] and that the stability of the Ruble would be maintained by the state parties by means of the coordination of their budget, tax, monetary and exchange policies.[310] Nevertheless, the state parties explicitly recognized the necessity to create an Interstate Bank, an institution which would perform the role of the common central bank.[311] Before the creation of the Interstate Bank, the state parties authorized the Russian Central Bank to carry out the emission of common currency[312] and to determine the exchange value of the Ruble.[313]

11.2.2 CIS Economic Arrangements of 1993

By 1993 every CIS country was experiencing almost complete economic fall down. Despite the undertaken measures, the economic output in the republics of the former Soviet Union declined by almost 15% in 1992.[314] In addition to the collapse of the trade with countries outside the former Soviet Union most notably in the framework of the Council for Mutual Economic Assistance (COMECON, an economic organization of socialist states), the economic links between the CIS participant states were being increasingly stalled.

Another attempt to preserve the existing economic ties, so much valuable for the maintenance of social stability and the realization of further political and economic reforms, was made on January 22, 1993. On this day, the leaders of the CIS participant states adopted two major documents: first, the CIS Charter which formalized the principles of the economic cooperation in the framework of the Commonwealth and second, an Agreement on "the Establishment of the Interstate Bank" which supposed to be the legal foundation for an eventual common central bank which would maintain the single Ruble Zone.

The CIS Charter proclaimed as one of its main purposes "the all-round balanced economic and social development of member states within the framework of common economic space".[315] In accordance with that purpose the CIS participant states

---

[307] Ibid, Art. 2.

[308] At that time, Georgia had still not joined the CIS.

[309] Agreement on the Single Currency System and Concerted Monetary and Exchange Policy (Oct. 9, 1992), Art. 1.

[310] Ibid, Art. 2.

[311] Ibid, Art. 5.

[312] Ibid, Art. 6.

[313] Ibid, Art. 9.

[314] See *EBRD. Economic Statistics and Forecasts,*<http://www.ebrd.com/country/sector/econo/stats/index.htm>(last visited November 14, 2007).

[315] CIS Charter (Jan. 22, 1993), Art. 2.

committed themselves to "the expansion of integration processes".[316] Further, the Charter specified the term "common economic space" describing it as "the free transition of goods, services, capitals and labor resources on the basis of principles of market economy".[317] Thus, the major challenge was not just to preserve the actual economic links but also to develop them on an absolutely new market economy foundation.

In full correspondence with the purpose of preserving and developing a "common economic space", the CIS participant states pledged themselves to assist in cooperation and development of links between state organs, public associations and economic structures[318] and also to cooperate in the following economic and social fields:

> 1) coordination of social policy, elaboration of joint social programs and measures on relaxation of social tension caused by the economic reforms; 2) development of transport, communication and power systems; 3) coordination of credit and fiscal policy; 4) promotion of development of trade and economic relations among the member states; 5) encouragement and mutual protection of investments; 6) promotion of standardization and certification of industrial products and goods; 7) legal protection of intellectual property; 8) stimulation of development of common information space; 9) realization of joint measures for protection of environment; 10) rendering mutual assistance in elimination of the consequences of ecologic disasters and of other kinds of emergency situations; 11) implementation of joint projects and programs in the field of science, engineering, education, health care, culture and sports.[319]

Although the Charter provided that the CIS states "shall build their relations on the basis of the principle of the development of mutually beneficial economic, scientific and technical cooperation",[320] the Charter was initially signed only by seven republics (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan) meeting significant opposition from others preferring economic independence from Russia.

The Agreement on the Interstate Bank had also only a limited success. Although the state parties agreed that the major function of the Interstate Bank "shall be to organize the management of the emission of cash Rubles",[321] on the other hand, the Agreement also provided that "this function shall be carried out only upon the condition of the delegation to the Bank of such powers by legislative organs of the interested states parties and the conclusion of an appropriate agreement".[322] Even at that time, it was doubtful whether the Agreement would obtain parliamentary ratification. For one thing, the decision-making in the CIS Bank was supposed to be assigned on the basis of each CIS member's capitalization and economic potential, which meant that Russia would dominate the institution. For another, the Agreement

---

[316] Ibid, Art. 3.

[317] Ibid, Art. 19.

[318] Ibid, Art. 6.

[319] Ibid, Art. 19.

[320] Ibid, Art. 3.

[321] Agreement on the Establishment of the Interstate bank (Jan. 22, 1993), Art.3.

[322] Ibid.

would have obligated each parliament to give up its authority over its national central bank.

Although, economic integration in the framework of the CIS was seen by the most of the former Soviet republics as the only way out of the crisis in which they found themselves, they could not agree on how far and deep the economic integration would go, at the same time resolutely blocking any issue involving even an insignificant loss of their newly acquired sovereign authorities. In the meantime, however, the economies of all CIS countries were in free fall. It is very revealing to note that on the same day when the CIS Charter and the Agreement on the Interstate Bank were signed, the CIS participant states also endorsed an Agreement "on the Common Activities regarding the Humanitarian Aid from Abroad" agreeing basically on the free and unstopped transit of such goods through their territories.[323]

On May 3, 1993, Kyrgyzstan, which was among those states that suffered most as a result of the disruption of the relationships with other former Soviet republics, became the first Central Asian state, under pressure from the International Monetary Fund, to introduce its own national currency and to withdraw from the Ruble Zone. However, the major blow came on July 24, when the Russian Central Bank unilaterally issued an enactment that pre-1993 rubles were no longer legal tender, practically putting the remaining countries of the Ruble Zone before a difficult choice either to introduce their own national currencies as soon as possible or to give up the sovereignty in monetary and exchange policies. This move set in motion panic attempts to change currency in the allotted time. Inflation reached almost 30% a month as other republics sought to transfer vast amounts of rubles to Russia to circumvent the enactment.[324]

In these ever deteriorating economic conditions five CIS participant states opted to stay within the Ruble Zone and have their fiscal monetary policy decided by Russia. On September 7, 1993 leaders of these five countries (Armenia, Belarus, Kazakhstan, Tajikistan and Uzbekistan) along with Russia signed an Agreement "On Practical Measures for the Creation of a New Type Ruble Zone". In difference to previous Agreements, this document was explicit about "the Ruble of Russian Federation" as a common currency of state parties. Most importantly, the Agreement also provided that the states parties "shall determine conditions and procedure of the joint maintenance of the stability of their common currency – the Ruble of Russian Federation by their highly convertible assets proportionally to the amounts of cash money in each of the Parties".[325] However, exactly this highly controversial provision became a stumbling block for the monetary union. The five joining CIS states wanted to keep their "highly convertible assets" (or in other words gold and hard-currency reserves) for themselves whereas Russia insisted that its partner states transfer their reserves to the Russian Central Bank. The last demand was

[323] Agreement on the Common Activities regarding the Humanitarian Aid from Abroad (Jan. 22, 1993), Art. 2.

[324] See Kommersant (13.09.1993).

[325] Agreement on the Practical Measures for the Creation of a New Type Rule Zone (Sep. 7, 1993), Art. 9.

unacceptable even for the remaining five republics which starting November 1993 one by one introduced their own national currencies. By January 1, 1994, the Ruble was the currency of only one state, the Russian Federation.

Thus, although the CIS establishing treaties contained a provision saying that "the development and strengthening of relations of friendship, good-neighborliness and mutually beneficial co-operation between the member states correspond to the vital national interests of their peoples",[326] and provided for the maintenance of the common economic space meaning basically the preservation of the "ruble zone" based on the still Soviet currency, the former republics could not agree on a common strategy for dealing with the desperate economy and the newly emerged Commonwealth could not withstand its first major test with respect to the preservation of the existing common economic space along the lines of the former USSR.

11.3 Attempt to Build a New Type Economic Union

11.3.1 Adoption of the CIS Treaty on the Economic Union of 1993

Simultaneously with the process of dismantling the old inefficient system of centralized state planning and creating a new capitalist economy, efforts were made to integrate the closely connected post-Soviet economies on a new market economy basis. As a reflection of the pain of economic dislocation resulting from the disintegration of trade and industry links, as well as an acknowledgement that the relations must be built on an absolutely new foundation already on May 14, 1993 the leaders of all the CIS countries (with the only exception of Turkmenistan), at their meeting in Moscow in the framework of the Council of Heads of States, adopted a decision to take measures on the creation of an Economic Union and to charge the CIS Coordination and Consultative Committee with the drafting of a Treaty on the Economic Union.[327]

Thus, on September 24, 1993, Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, and Uzbekistan "based on the historical commonality of their peoples…, [and] recognizing the objective necessity of the formation and development of the single economic space" signed the Treaty on the Establishment of the Economic Union.[328]

The Treaty provided that the membership in the Economic Union would involve "the adoption of the full amount of the obligations and rights arising from the Treaty" and would not be "an obstacle for the carrying out economic relations with third states or organizations provided such relations do not contradict the interests of the Economic Union".[329] The states parties also agreed to bring their national

---

[326] Minsk Agreement (Dec. 8, 1991), at Preamble.

[327] During the negotiations, Ukraine made a reservation that it would agree only on the term "Community" instead of "Union", and subsequently refused to sign the Treaty.

[328] CIS Treaty on the Establishment of the Economic Union (Sep. 24, 1993), at Preamble.

[329] Ibid, Art. 29.

legislations into correspondence "with the norms of the Treaty and international law",[330] and also to ensure the priority of the Treaty's provisions over the norms envisaged by national legislations the state parties.[331] On the other hand, the state parties pledged themselves to govern their relations on the basis of the principles of international law, and create the Economic Union "on the basis of the voluntary membership, the respect for the sovereignty, territorial integrity, equality and mutual responsibility of the states parties for the realization of its provisions".[332] Each of the states parties could freely terminate its membership by informing other member states 12 months in advance.[333]

The Treaty provided also that it would be open to accession by other states upon the consent of the state parties (thus, Georgia joined on January 14, 1994 and Turkmenistan on January 23, 1994),[334] and that it was concluded for 10 years being automatically subject for the prolongation for subsequent 5-year periods if none of the states parties would terminate its membership.[335] Although reservations to the Treaty were explicitly not allowed, the Treaty provided for the possibility of an associate membership for those states which are willing to assume only a part of the obligations arising form the Treaty.[336] Thus, on April 15, 1994 Ukraine acquired an associate membership in this organization being interested only in the first stage of the Economic Union – creation of an FTA.

11.3.2 Concept and Creation Stages of the Economic Union

This Treaty committed the CIS states to the gradual creation of an Economic Union defining it as the single economic space "with the freedom of movement of goods, services, capital and labor, with the concerted financial, budget, tax, price, external economic, customs and currency politics, with harmonized economic legislation and with common statistical database".[337] The envisioned Economic Union had to pursue the following main objectives:

> (1) the formation of conditions of the stable development of the economies of the state parties in interests of the increase of living standards of their population; (2) the stage-by-stage creation of a common economic space on the basis of market relations; (3) the creation of equal opportunities and guarantees for all business entities; (4) the joint realization of the economic projects representing the common interest; (5) the solution by joint efforts of environmental problems and also the liquidation of the consequences of natural disasters and accidents.[338]

---

[330] Ibid, Art. 26.

[331] Ibid, Art. 25.

[332] Ibid, Arts. 1, 25.

[333] Ibid, Art. 33.

[334] Ibid, Art. 34.

[335] Ibid, Art. 33. The Treaty came into force on January 14, 1994 but was subsequently not prolonged and expired in January 2004.

[336] Ibid, Arts. 30, 32.

[337] Ibid, Arts. 3, 4.

[338] Ibid, Art. 2.

The states parties visualized the creation of an Economic Union through a multi-stage process, beginning with a multilateral FTA, proceeding to a customs union, and then to a common market and culminating in a monetary union with a single currency.[339] For each of the integration stages the Treaty foresaw a complex of inter-related measures which had to be achieved and implemented in correspondence with the subsequent agreements.[340]

During the *first* stage the states parties agreed to create an FTA. In doing so, they pledged themselves:

> (1) to consequently reduce and abolish customs duties, taxes and fees and all other trade obstacles; (2) to harmonize the customs legislation as well as the mechanisms of the tariff and non-tariff regulation; (3) to simplify customs procedures; to gradually reproach tariffs on the transportation of goods and passengers under the observance of the principle of transit freedom; and also (4) not to allow unauthorized re-export to third countries.[341]

Second, after these initial actions were carried out, the states parties were supposed to introduce a common external tariff and coordinate their external trade policies in the relations with third countries, thus establishing a customs union.[342]

Third, on the basis of a functioning CU, the states parties agreed to create necessary legal, economic and organizational conditions for the free movement of the capital and labor.[343] In doing so, they committed themselves to do the following:

> (1) to apply free market prices in mutual trade and not use price discrimination with respect to their natural and legal persons involved in economic activities;[344] (2) to provide the regime of national treatment for natural and legal persons of the parties on the whole territory of the Economic Union; (3) to promote the development of the direct economic relations between them; (4) to promote the creation of joint ventures and transnational manufacturing associations; (5) to coordinate their investment policies including the attraction of foreign investment in the fields of mutual interest;[345] (6) to provide visa-free movement of their citizens within the territory of the Economic Union; (7) to coordinate their policies in the field of labor relations in accordance with the conventions and recommendations of the International Labor Organization; (8) not to allow discrimination of citizens on ethnic or any other ground in the issues of labor conditions and social guarantees; (9) to mutually recognize documents on education and qualification of employees of other states parties; and (10) to regulate labor migration, social insurance, pension maintenance and other social issues.[346]

Fourth, the states parties committed themselves to coordinate their financial policies, harmonize their tax legislations and gradually carry out the formation of a monetary

---

[339] Ibid, Art. 4.

[340] Ibid.

[341] Ibid, Art. 5. Still the Treaty also provided that in correspondence with the international practice the states parties can jointly or individually introduce protective or other measures of temporary character in their mutual trade including those related to national security. Ibid, Art. 9.

[342] Ibid, Art. 6.

[343] Ibid, Art. 7.

[344] Ibid, Art. 8.

[345] Ibid, Art. 10–13.

[346] Ibid, Arts. 19–24.

union (which is a necessary component of the economic union). Foremost, the states parties intended to create a Payment Union based on the following principles: (1) mutual recognition of national currencies and determination of their official quotation; (2) carrying out of payments in national currencies with the use of multilateral clearing through the Interstate Bank and other payment centers; (3) achievement of mutual convertibility of national currencies on current operations. Subsequently, it was also provided that the Payment Union might be transformed into a Monetary Union after national currencies would achieve full convertibility.[347]

Looking at the concept and the progression of stages of the envisioned CIS Economic Union, one can easily notice a striking similarity with the Rome Treaty of 1957 which established the EEC.[348] However, in difference to the Rome Treaty (which consisted of 248 articles and 4 annexes), the CIS Treaty on the Economic Union (a relatively small document of 34 articles having largely a declaratory character) contained no fixed dates and deadlines with respect to the completion of its stages.

11.3.3 Interstate Economic Committee

Another important difference between the EEC and CIS is absolute dissimilarity of their institutional frameworks created in both cases for the attainment of the basically similar goals. In difference to the powerful supranational institutions created by the Rome Treaty, the loose institutional framework of the CIS, based completely on the principle of consensus, was just not adequate for the implementation of the objectives set up by the Treaty on the Economic Union.

In this regard, it should be noted that the drafters of the Treaty on the Economic Union were generally aware of this inadequacy. Their understanding is very well reflected in the provision saying that "for the maintenance of the Economic Union, the states parties shall use the existing CIS organs and create new executive and coordination institutions on the basis of additional agreements".[349]

On the basis of the above provisions, on October 21, 1994 the leaders of the CIS states, "aspiring to assure the formation and effective performance of the Economic Union, as well as the efficient development of integration processes in the framework

---

[347] Ibid, Art. 16. In this regard, it should be noted that on October 24, 1994 an Agreement on the Payment Union was concluded (ratified by all CIS participant states except for Ukraine, Georgia, Azerbaijan and Turkmenistan).

[348] Moreover, on the same day as the CIS Treaty on the Economic Union, all CIS countries (except for Turkmenistan) adopted an Agreement on the Establishment of Interstate Eurasian Association of Coal and Metal (Sep. 24, 1993). The major objective of the Association was to develop close cooperation and coordination of economic policies with respect to the coal and metal industries. The Association was governed by a Collegium consisting of ministers of coal and metallurgy. Further, the Agreement foresaw the creation of an executive committee of specialists, an arbitration commission for settlement of disputes and an auditing commission. The Agreement was ceased to be effective by a special Protocol of Sep. 19, 2003.

[349] CIS Treaty on the Establishment of the Economic Union (Sep. 24, 1993), Art. 27.

of the CIS",[350] made a significant step forward and established a new organ – the Interstate Economic Committee (IEC),[351] the first (and as of the present the last) CIS organ endowed with some supranational authorities.[352]

The IEC was a permanent organ with the seat in Moscow (not in Minsk as most of the CIS organs), which executed "control and regulatory functions within the competences voluntarily delegated by the state parties of the Treaty on the Economic Union".[353] Specifically, the main functions of the IEC were determined to be:

> (1) to prepare drafts of documents on the economic issues and introduce them to the CHS and the CHG; (2) to inquire information from relevant state organs on the implementation of the assumed obligations; to organize upon the consent of the respective governments on-site investigations; to take measures together with the relevant state organs on the elimination of emerged complications and on the dispute settlement; (3) to inform member states on the issues of the economic cooperation.[354]

Structurally, the IEC was composed of the Presidium and the Collegium. The Presidium was the supreme body of the IEC which consisted of the deputy prime ministers of the state parties and considered the most important issues of the economic cooperation. Its meetings were conducted no less frequently than once in four months and presided by a chairperson who was elected from among its members for a term of one year.[355] In between the meetings of the Presidium, the functions of the working body were implemented by a permanent Collegium consisting of the plenipotentiary representatives of the state parties. The Chairperson of the Collegium, being simultaneously a deputy of the Presidium's chairperson, was appointed by the CHS on the proposal of the CHG for a term of three years. His deputies were appointed by the CHG on his own proposal. Neither the Chairperson nor his deputies could represent the interests of their states and accept any orders from them.[356]

---

[350] Agreement on the Establishment of the Interstate Economic Committee of the Economic Union (Oct. 21, 1994), at Preamble.

[351] The idea of the IEC was already discussed on April 15, 1994 being, however, ultimately watered down into a Commission for Economic Union, which had mainly analytical and advisory responsibilities. However, the Belarus and Ukrainian elections of July 1994 rejuvenated the idea of forming the IEC. Yeltsin was sure that the new leaders of these two Slavic nations would make commitments to the goals of economic integration, and decided to add more pressure to move forward. See Brzezinski & Sullivan, Russia and the Commonwealth of Independent States, *supra* at 369. Nevertheless, the new Ukrainian President Kuchma turned out to be less pro-integrationist than expected and did not fully commit Ukraine to the envisioned CIS Economic Union.

[352] In this regard, it is interesting to note that in 1995, Pechota wrote that "Russia benefits from the contemporary world trend which de-emphasizes state sovereignty and favors communal values such as common interest, regional solidarity, and joint action". See Pechota, *The Commonwealth of Independent States, supra* at 587. Further he characterized the CIS as "the institutional expression of a new geopolitical reality within the Eurasian region". Ibid, at 588. Russian scholar Moiseev wrote that the Committee represented the preliminary stage of a supranational organ. See Moiseev, Pravovoi Status Sodružestva, *supra* at 61.

[353] Regulations on the Interstate Economic Committee of the Economic Union (Oct. 21, 1994), Par. 1.

[354] Ibid, Par. 4.

[355] Ibid, Par. 6.

[356] Ibid, Par. 7.

The structure of the IEC also included its Apparatus which consisted of various departments and was headed by the Chairperson of the Collegium. The staff of the Apparatus enjoyed the status of international civil servants and was supposed to be independent form their national states.[357]

However, the most important aspect about the creation of the IEC was a significant innovation in the procedure of its decision-making. Both for the IEC Presidium and the Collegium there were two major methods envisaged. *First,* "on the issues of the transfer to the customs union, to the common market, to the monetary union and other strategic matters of the development of the Economic Union", the decisions were supposed to be adopted by a consensus.[358] *Second,* on other issues of the economic development, and especially on those the solution of which required either "significant expenditures" or might have "serious economic consequences", the decisions could be adopted by "the qualified majority of votes taking into account economic potentials of state parties".[359] In doing so, the following distribution of votes was agreed upon: Russia – 50 votes, Ukraine – 14, Belarus, Kazakhstan, Uzbekistan each 5, Azerbaijan, Armenia, Georgia, Kyrgyzstan, Moldova, Tajikistan and Turkmenistan each 3 votes.[360] A decision was deemed to be adopted if it would gather no less than 80 votes.[361]

Thus, the IEC was the first attempt in the framework of the CIS to create an organ formally capable to adopt decisions by majority of votes. However, its major problem was that the CIS participants states could not even agree on the strategic matters of the development towards the Economic Union (the decision-making on which would require consensus) because of absolutely different economic ways and approaches they had chosen on their way of transition from socialist to a market-oriented economy. Moreover, Ukraine (the only country which could in some way balance Russia) enjoyed, being only an associate member, merely a limited status on the IEC and participated in discussions regarding only certain issues. With respect to other issues, a provision was applied that: "should not all of the state parties participate at the adoption of a decision, then the sum of the votes of participating states is assumed for 100 and the number of votes of the participating states is redistributed proportionally to the initial distribution",[362] which made the disproportion in favor of Russia even more higher and thus obviously unacceptable for the newly-emerged sovereign countries.

---

[357] Ibid, Art. 11.

[358] It was also provided that the adopted decisions would have no force for the state parties which would declare their non-participation in the discussion and voting. Ibid, Art. 10.

[359] Ibid.

[360] Ibid.

[361] Ibid. Accordingly, only Russia could never lose a vote in the Committee. It should also be noted that the state parties agreed that they would finance the activities of the IEC in the shares which correspond to the above distribution of votes.

[362] Regulations on the IEC of the Economic Union (Oct. 21, 1994), at Annex II.

11.3.4 CIS Agreement on the Establishment of an FTA of 1994

Even though the Treaty on the Economic Union of September 24, 1993 still contained a provision on the so called "new-type Ruble Zone",[363] by January 1, 1994 it was evident that without any exception all the integration-willing CIS countries would have to start from the very beginning, namely from the creation of a free trade area.

On April 15, 1994 all CIS participant states, "acting towards the consequent realization of the provisions of the Treaty on the Economic Union",[364] signed an Agreement on the Establishment of a Free Trade Area (on the same day as the Agreement on the Associate Membership of Ukraine in the Economic Union). The Agreement was clearly conceived to be the first stage on the way to the Economic Union and provided that the creation of the FTA is "the transitional stage to the formation of the Customs Union" which would be established by the states willing "to carry out the requirements of the present Agreement" and "to cooperate in the framework of the Customs Union".[365] On the other hand, however, as it is usual with respect to any FTA, it did not exclude the possibility of the participation of its state parties in other RIAs.[366] Moreover, any state party could terminate its participation in the Agreement notifying other parties six months in advance.[367]

The most important provision of the Agreement was that the state parties agreed not to apply any customs duties and quantitative restrictions with respect to any goods except those determined by a "common list of exemptions" which was considered to be "an indispensable part of the Agreement".[368] Also, it was agreed to implement a number of additional actions inseparably connected to the establishment of an FTA:

> (1) to coordinate economic policy generally and trade policy with regard to third countries in particular;[369] (2) to harmonize and/or unify the national legislations;[370] (3) to simplify to the maximum customs formalities and to introduce a Harmonized System of Description and Coding of Goods;[371] (5) to provide the regime of national treatment for the goods of the state parties and for the conditions of their transit;[372] (6) not to allow

---

[363] Ibid, Art. 17.

[364] Agreement on the Establishment of a Free Trade Area (Apr. 15, 1994), at Preamble.

[365] Ibid, Art. 21.

[366] Ibid, Art. 20 (1).

[367] Ibid, Art. 25.

[368] Ibid, Art. 3. Still any state party was also entitled to apply measures "generally accepted in international practice" for the maintenance of national security and the protection of vital interests. Nevertheless, the state party taking protective measures was obliged to inform other parties in advance about the reasons, character and terms of such measures and could take them normally only 6 months after that the state parties started preliminary consultations. Ibid, Art. 13. Immediate application of protective measures was allowed only in "special cases" with prompt notification of the other state parties and opening consultations. Ibid, Art. 14.

[369] Ibid, Art. 2.

[370] Ibid.

[371] Ibid, Arts. 6, 7.

[372] Ibid, Arts. 8, 10..

subsidies, if as a consequence "the conditions of fair competition shall be violated";[373] (7) and also not to allow re-export of goods which require authorization.[374]

Accordingly, the Agreement gave account to such important dimensions of the facilitation of the trade as coordinated economic policy, customs cooperation and free transit. However, these commitments remained largely unrealized due to such significant barriers to trade facilitation as problems with respect to customs clearance and transit fees, lengthy and inefficient customs procedures, unofficial payments (corruption), lack of convertibility of national currencies, reduction in the number of border-crossing points, etc.[375]

But the major reason of the ineffectiveness of the Agreement which went into effect on December 30, 1994 and was ratified by all CIS participant states (except for Turkmenistan[376]), was the matter of fact that its most important signatory Russia refused to ratify it. For Russia, the establishment of an FTA in the framework of the whole CIS made sense only as an inseparable part of efforts to create a full-fledged economic union. Since it subsequently failed to persuade Ukraine, its by far major CIS partner, to abandon its ambitions towards integration into the EU and NATO, Russia had little interest to open up its markets and most importantly to supply its energy-carriers to Ukraine at its domestic prices. Thus, the attempt to create a multilateral free trade arrangement in the framework of the whole CIS as a first step towards the eventual CIS Economic Union never materialized.

11.4 Reforms of 1999

Although initiatives were undertaken to make the CIS more effective and to revive the idea of a CIS Economic Union, the disintegration processes were continuing inexorably and the Commonwealth, especially after the Russian financial crisis of 1998, had run into a profound crisis. The share of other CIS countries in Russia' total foreign trade fell from 54.6 in 1991 to 18.7% in 1999.[377] The economic output of the CIS countries had fallen by the end of 1990s to merely 60% of the 1990 level.[378] The major reason of this economic disaster was the fact that the Soviet Union was a highly integrated economy built on the organizing principle of no

---

[373] Ibid, Art. 9.

[374] Ibid, Art. 11

[375] See e.g. *ECOSOS (2005). Building Trade Partnerships in the CIS Region,* <http://www.unece.org/trade/ctied/ctied9/trd_05 _17e. pdf> (last visited December 15, 2007).

[376] Turkmen President Niyazov said that Turkmenistan does not see any perspectives in an FTA and compared the selling of the natural gas to the CIS countries to the long-term credit arrangements. Quoted in Moiseev, *Sodružestvo Nezavisimykh Gosudarstv: Itogi i Perspektivy Razvitiya,* Rossiiskii Ežegodnik Meždunarodnogo Prava 215 (2000).

[377] Grinberg et al., *Sodruzhestvo nezavisimykh gosudarstv: Sostoyanie i perspektivy razvitiya,* Scientific Paper of IMEPI RAN (2000).

[378] See Table 5 "The Transition Recession of CIS Countries" (available in Annex).

duplication of economic activities. Even though none of its successor states was able to pursue an autonomous economic life successfully, the priority was, however, obviously given to the process of creation of independent national economies.

After the idea of the CIS Economic Union came ultimately to grief, Russia increasingly adopted instead a more pragmatic course of variable policies with regard to the different CIS countries creating advanced forms of RIAs with those willing to commit to deeper integration (maintaining in addition a number of bilateral free trade agreements[379]) and emphasizing on bilateral relations of preferential character with those not willing to participate in anything more rather an FTA.

An evidence of this approach was the adoption of a Protocol on April 2, 1999 on "amendments and additions" to the FTA Agreement of 1994. The Protocol of 1999 reflected the changed circumstances in the relations between the CIS countries and limited the economic cooperation agenda to free trade. As a result, the references to the FTA as a transitional step to a customs union (and further to the Economic Union) were repealed. Also, the Protocol of 1999 unambiguously provided that "the new quantitative and tariff import and (or) export restrictions, as well as measures that have equivalent effect, shall not be introduced in addition to those previously fixed in bilateral agreements".[380] Consequently, the Protocol of 1999 made the bilateral agreements a long-term and vital component of the structural design of the trade regimes of the CIS countries.

At the same time, an accompanying reform of the CIS multilateral institutions was undertaken. On April 2, 1999 the CHS took decisions which reorganized the IEC to became a part of the CIS Executive Committee (thus recognizing the lack of prospects for any ideas of supranationality in the CIS) and established the CIS Economic Council, based fully on the principles of sovereign equality and consensus, with the aim to ensure the implementation of the agreements and decisions relating to the formation and functioning of the FTA.

11.5 Further Developments

The above-mentioned is not to say, however, that the idea of a multilateral economic association which would encompass the entire CIS was once and for all abandoned. In this regard, it is interesting to note that at the time of the rapprochement between Russia and Ukraine in 2003–2004, the CHS decided on January 29, 2003 at its meeting in Kiev (under the chairmanship of Russian president Putin) to "support the corresponding proposals of Ukraine" and to prepare a draft decision on the formation of an FTA in the framework of the CIS.[381] On May 30, 2003 on its next

---

[379] On more details see Dragneva & Kort, *The Legal Regime For Free Trade in the Commonwealth of Independent States,* 56 ICLQ 233 (2007).

[380] Agreement on the Establishment of a Free Trade Area (Apr. 15, 1994), as amended by the Protocol (Apr. 2, 1999), Art. 3 (3).

[381] Decision of the CHS of January 29, 2003.

meeting in St. Petersburg, the CHS decided to consider the preparation of documents on the completion of an FTA as "the most important task of the governments of the CIS participant states"[382] and already on September 19, 2003 in Yalta declared that "the legal formation of an FTA in the framework of the CIS is substantially completed".[383]

In order to understand this unexpectedly rapid progress, it must be mentioned that these developments coincided with the process of the formation of the would-be Single Economic Space (SES) between Russia, Ukraine, Belarus and Kazakhstan which envisioned the movement towards a common market between these four countries.[384]

Although, after the Orange Revolution in Ukraine in late 2004 (and subsequent reorientation of the Ukrainian government towards the EU and NATO), the plans for both the SES and an FTA in the framework of the entire CIS were abandoned for indefinite future, the CHS adopted on October 5, 2007, at its latest summit in Dushanbe, a Conception of the Further Development of the CIS – a document which signals that the idea of a RIA encompassing the entire CIS was not definitively written off.

In particular, this document provided that "at the present, the priority of the CIS is the economic cooperation" and that "the economic goal of the CIS, on the present stage [of its development], must be the completion of an FTA and its further improvement according to the principles, rules and norms of the WTO".[385] It should be noted that as of January 1, 2008 the following CIS countries (among them major post-Soviet economies) were still conducting accession negotiations to WTO: Azerbaijan, Belarus, Kazakhstan, Russia, Tajikistan, Ukraine and Uzbekistan.[386] In this regard, the Conception emphasized the necessity of the development of CIS economic integration "on the basis of market economy, mutual respect and benefit" and the need of coordinated "integration into a world economy".[387] The major sense of the coordinated approach is avoiding unnecessary and mutually detrimental competition in the WTO accession process.[388]

---

[382] Decision of the CHS of May 30, 2003.

[383] Decision of the CHS of September 19, 2003.

[384] On the SES, see *infra* in subchapter 14.

[385] Conception of the Further Development of the CIS of 2007, Par. 4.1.

[386] Other relatively small CIS countries like Armenia (in 2003), Georgia (2000), Kyrgyzstan (1998) and Moldova (2001) have already become WTO members. The only CIS country which did not even start accession negotiations is Turkmenistan. *WTO. Summary Table of Ongoing Accessions,* available <http://www.wto.org/english/thewto_e/acc_e/status_e.htm>(last visited Dec. 1, 2007).

[387] Conception of the Further Development of the CIS of 2007, Par. 4.1.

[388] Roberts and Wehrheim wrote in this regard that "WTO accession should speed up the process of trade liberalization into the laws of each applicant country. However, until all CIS countries are members, it may engender competition between CIS states. When an applicant country becomes a WTO member it can seat on the Working Party of other applicant members…For a country such as Ukraine…it would make sense to try to extract concessions by joining the WTO ahead of Russia". See Roberts & Wehrheim, *Regional Trade Agreements and WTO Accession of CIS Countries,* Intereconomics: Review of European Economic Policy 323 (2001).

12 Evaluation

The second chapter of this book attempted to analyze legal aspects of the establishment and development of the CIS, an association of sovereign states formed in 1991 and comprising Russia and 11 other republics that were formerly part of the Soviet Union. The result is that the following major fundamental conclusions may be drawn up.

First, after the abrupt collapse of the USSR, the former Soviet republics, in their haste to set up the Commonwealth of Independent States, were guided by the urgent necessity to solve myriads of problems resulting from the fall down of the single federal state and the need to coordinate their policies most importantly regarding the still existing single Soviet army and common state planned economy with the Soviet Ruble as single currency. Moreover, the post-Soviet countries desperately required to synchronize restructuring the Soviet administrative command system and to coordinate transition to a market-based economy. However, even at their first meeting as Commonwealth leaders, presidents of the CIS participant states had very different visions of organization's functions and pursued immensely disparate interests being particularly divided on such essential issues as what exactly the commonwealth is, what to do with the military, and what measures should be taken to help the rapidly deteriorating economy. Essentially, two major groups developed, the first headed by Russia and supported in particular by Belarus and Kazakhstan looked forward to a lasting association, while the second group composed of Azerbaijan, Georgia, Moldova, Turkmenistan and Ukraine looked on the CIS only as a civilized means to manage the divorce process among the successor states of the former USSR.

Second, as a result of a fundamental disagreement over the goals and purposes of the CIS, the early period of the formation of the CIS has generally experienced the collision of two absolutely different views with regard to the legal status of the CIS. The first group of countries desired the CIS to become a strong decision-making entity in the form of a confederation resembling the today's European Union by both exercising close cooperation in military-political sphere and establishing a customs union. However, the second group of post-Soviet countries visualized the CIS only as a temporary and merely consultative forum, a sort of "presidents' club" without any international legal personality viewing it only as a transitional organization that was to serve only to prepare the individual republics for complete independence. As an inevitable compromise between these two approaches, the CIS took a form of a loose intergovernmental organization.

Third, although many commentators predicted from the very beginning of the CIS' existence that the increasing differences among its participants would inevitably result in disintegration of the CIS, the Commonwealth proved its viability and is undergoing the process of evolution. From the viewpoint of international law, the present-day Commonwealth has all the attributes of an intergovernmental organization being established on the basis of an international treaty, composed of sovereign states, attaining certain purposes and objectives and having its

own institutional framework. Therefore, based on the conclusions drawn in the Chapter 1,[389] it may be argued that the CIS could potentially be successful, provided there is a corresponding political will of its participants, in establishing cooperation in both economic and military-political spheres and maybe even creating an FTA but would absolutely not be suitable for the formation of any effective advanced forms of RIAs.

Fourth, although initially the most of the Soviet armed forces were placed under CIS command, and the most of the CIS countries agreed to preserve Ruble as a common currency, thus temporarily giving the Commonwealth characteristics of a confederation, the CIS participant states clearly refused to confer upon the Commonwealth any powers and competences which would anyhow limit their national sovereignty making the CIS an amorphous body from the very beginning of its existence. Moreover, the second group of states headed by Ukraine refused to sign any agreements on closer military-political and deep economic integration depriving thus the old structures of any chances to be preserved. Consequently, it was only a matter of time before each successor state of the former USSR formed its own armed forces and introduced a national currency acquiring thus all the attributes of sovereign entities.

Fifth, after the attempt to create CIS joint armed forces proved a total failure, Russian efforts to transform the CIS into one "geostrategic space" along the lines of the USSR met with limited success. At the present, only seven CIS participant states (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan) indicated their desire to establish closer institutionalized cooperation in military-political sphere. It must be noted that exactly these countries (except for Armenia which does not have customs borders to any of the above-mentioned states) also agreed to conduct deeper economic integration and establish along with the CIS additional regional organizations pursuing the creation of advanced forms of RIAs.[390]

Sixth, already on the eve of the collapse of the old Ruble Zone, the CIS participant states made an attempt to create an Economic Union on a completely new market economy basis. The Treaty of 1993 called for the progressive establishment of a free trade association, a customs union, a common market for goods, services, capital, and labor, and subsequently a monetary union. For that purpose, the CIS participant states signed an Agreement on the FTA as the first step towards the Economic Union and created the Interstate Economic Committee, an organ which may be described as an embryonic supranational institution with the main task to integrate economies and ensure that the multitude of agreements that had been signed by CIS states were implemented.

However, these documents remained largely on paper. In difference to Russia (as well as Belarus and Kazakhstan) which envisaged the CIS as a vehicle for closer economic and political integration and strove to create at least a customs union, the second-largest CIS country Ukraine limited its participation to an associate member-

[389] See in particular Table No. 1 "Relationship between the Forms of RIAs and the Methods of Decision-Making in Them".

[390] Discussed *infr*a in Chapter 3.

ship indicating its interest to work toward the creation of merely a preferential trade system and brushing away any plans to enter into close military-political cooperation and to establish advances forms of RIAs. Despite all Russian efforts, Ukraine did not sign the CIS Charter, and did not become a full member of the would-be Economic Union making the imbalance between Russia and the rest of the newly independent states insurmountable for the creation of any advanced form of RIA. At the same time, Russia, which was also primarily preoccupied with the consolidation of its own statehood and very difficult economic transition issues, was not able to proceed with what in effect were very costly economic obligations.[391] Consequently, the centrifugal tendencies obviously prevailed over centripetal ones and the CIS remained a loose association of states divided into groups progressively going their separate ways.

Seventh, even though most of the CIS countries recognized their economic interdependence and the necessity of common efforts formally entering the CIS Economic Union, the policies of the newly independent states still reflected distrust and suspicion towards a new centralization by Moscow.[392] This largely explains why the CIS participant states signed numerous agreements on the economic integration but were very lax in implementing them.[393] Another important reason is that most of the newly independent countries, despite their proclamations on the adherence to the supremacy of international law, often openly ignored even their own respective constitutional provisions,[394] evidently showing their general lack of commitment to rule of law. As a result, the CIS states were unsuccessful to achieve consensus on closer integration.

Eighth, one of the essential components of any well-functioning regional organization capable of fulfilling its objectives is a fully integrated judicial organ capable of resolving disputes and maintaining rule of law among all members of the organization. This is especially true with respect to the organizations pursuing such far-reaching

---

[391] Particularly revealing are the words of Yeltsin of February 1994: "Integration must not bring harm to Russia itself or lead to overstretch of our forces and resources, material as well as financial", Rossiyskaya Gazeta (24.02.1994).

[392] The fact that the Russia's imperial legacy cannot be easily discarded as an impediment to CIS integration no matter how mutually beneficial integration might be was recognized, e.g. by Gorbachev who wrote that "the centuries-old habit of the Russian leaders to dominate has had its influence, too. It is not always overt, but it is always easy to recognize. It feeds the fears of once again becoming dependent on Moscow". Quoted in Latawski, *The Limits of Diversity in the Post-Soviet Space: CIS & GUUAM,* RMA Sandhurst Paper 80 (No. G 93, 2001).

[393] As put by Fissenkos already in 1993: "The [CIS] multilateral agreements are abstract and of declarative nature. Often after or during their conclusion the same issues are reaffirmed on the bilateral level…In addition to a low juridical culture this shows the distrust towards multilateral agreements within the CIS and also towards the Commonwealth itself". See Fissenko & Fissenko, *The Charter of Cooperation, supra* at 245 (1993). For the current number of the agreements adopted in the framework of the CIS see Table No. 4 "Information on the Legal Documents Adopted in the Framework of the CIS in 1991–2007" (available in Annex). According to Nazarbayev, of the 1,600 agreements formally adopted in the CIS, its members have implemented fewer than 30 percent, quoted in Weitz, *Things Fall Apart: The CIS Can't Hold The Former Soviet Republics Together,* The Weekly Standard (18.01.2007).

[394] See Danilenko, *Implementation of International Treaties in CIS States: Theory and Practice,* 10 EJIL 51 (1999).

goals as the creation of an economic union. However, the CIS states failed to create an institution similar to the European Court of Justice that would not be influenced by the national interests of the member states and would ensure that a growing body of community law and norms is correctly interpreted and applied effectively and consistently in all member states.

The establishment of a similarly effective judicial organ would only be possible if the CIS countries would adopt a supranational integration model and accordingly take steps towards strengthening the institutional structure of the CIS and creating an efficient mechanism for enforcement of judicial decisions. However, the CIS, from its very inception, was plagued by infighting between (at least some of) its states and their undisguised disregard for written declarations and agreements which i.a. evidently reflected a very low degree of their commitment to the principle of rule-of-law. Although the political systems of most CIS countries underwent democratization in the 1990s (though in different scale and degree in each respective case), the adherence to rule-of-law remained elusive in practically all of them. Because of their general distrust to due process of law, most post-Soviet states were not willing to transfer additional powers to a stronger CIS even if that would imply protection of their rights and interests by an independent and impartial judicial body. As a result, the role of the CIS Economic Court became marginal and ineffective.

Finally, after the demise of the USSR, the Commonwealth played a major role in preventing full-scale military conflicts and ethnic cleansing on Yugoslav scenario amid the stormy winds of unbound nationalism. However, with respect to the integration processes, the operation of the CIS proved, in general, to be unsatisfactory. Despite the efforts of the Kremlin to bring the rest of the CIS countries into its orbit (regardless of even the announced completion of the creation of a legal framework for free trade in 2003), Azerbaijan, Georgia, Moldova and Ukraine (which formed their own organization – GUAM, and pursue the integration towards Euro–Atlantic organizations) as well as Turkmenistan (which declared the policy of absolute neutrality) refused to establish close military cooperation and enter into deeper forms of integration with Russia. Even though in 1994, the CIS Agreement on the establishment of an FTA was signed, it was exactly Russia which along only with Turkmenistan refused to ratify it. Instead, the Kremlin started to create a system combining (1) the establishment of advanced forms of RIAs with those CIS countries willing to establish a customs (and eventually also an economic union) with Russia and (2) the conclusion of bilateral preferential and specific-issue agreements (not foreseeing a full FTA) with the rest.[395] Accordingly, already in the second half of 1990s it was clear that the idea of a multilateral military-political and economic

[395] The Russian Foreign Minister Ivanov told in 2001: "The entire history of the creation of various integration structures shows that without a solid bilateral base of relations, it is difficult to come to multilateral forms of cooperation. For any form of multilateral cooperation presupposes delegation of a part, insignificant perhaps, but still a part of sovereignty to multilateral agencies…We will actively develop bilateral ties, and as these grow stronger, the possibilities will broaden for multilateral cooperation within CIS as well". Quoted in Latawski, *The Limits of Diversity in the Post-Soviet Space, supra* at 83.

association based on the advanced forms of integration and encompassing the entire CIS has no prospects and at least in the foreseeable future integration processes in the post-Soviet area were possible only at different levels and in different camps. Practically, this perception resulted in the creation of a number of additional associations on the *matreshka* principle (with fewer members but more advanced in level of integration than the CIS): a *Duet,* a (still not realized) *Quartet* and a *Sextet plus One* (discussed *infra* in the next Part).

Nevertheless, the adoption of such documents as the Conception of the CIS Further Development of October 5, 2007 evidently shows that there is general consent among the CIS participant states to regard their organization as the main framework for broad regional political debate and economic cooperation.[396]

[396] On March 25, 2005, at a CIS Summit in Yerevan, Russian president Putin said that "expecting from the CIS outstanding achievements in the spheres of economy, political and military cooperation, naturally led to nothing, since there were no prerequisites for that…The CIS was formed to help conduct the process of the USSR disintegration in a more civilized way. [A the present] the CIS achieved this task…But the preservation of the CIS is of course necessary…It is a platform, where heads of states can regularly meet, discuss problems and either solve them or put them on a bilateral basis and integration formations". See RIA Novosti (25.03.2005),<http://en.rian.ru/onlinenews/20050325/39700458.html>(last visited December 7, 2007). Few days later Russian Foreign Minister Lavrov told: "What we know as 'civilized divorce' not merely does not rule out integration – on the contrary, it presupposes integration". See RIA Novosti (28.03.2005), http://en.rian.ru/onlinenews/20050328/39700654.html (last visited December 7, 2007).

http://www.springer.com/978-3-540-87651-9

Legal Aspects of the Regional Integration Processes in the Post-Soviet Area

Kembayev, Z.

2009, XII, 217 p. 1 illus., Hardcover
ISBN: 978-3-540-87651-9