Selected Texts Of Legal Instruments In International Environmental Law

United Nations Environment Programme

Transnational Publishers, Inc.
Ardsley Park
Science and Technology Center
410 Saw Mill River Road
Ardsley, NY 10502
United States of America

UNEP has been granted special permission by Transnational Publishers, Inc. to print this edition, for distribution free of charge to readers in developing countries
and countries with economies in transition.

ISBN: 92-807-2558-0
Job No: DPD/0644/NA

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Printed at the publishing Section of the United Nations Office at Nairobi on environmentally friendly chlorine-free paper

MESSAGE

The global impact of environmental harm brings home the truth that we are all in this together. Each of our actions, each of our decisions, has a direct link to whether the world as we know it today will survive, or succumb during the lifetime of our children. Success in combating environmental degradation is dependent on the full participation of all actors in society. It is therefore essential to forge a Global Partnership, to build an enduring civilization on Earth that rests on the reaffirmation of Human Values set out in the *United Nations Millennium Declaration:* Freedom, Equality, Solidarity, Tolerance, Respect for Nature and Shared Responsibility. One of the key ways of translating these shared values into actions is by strengthening respect for the rule of law in international as in national affairs.

Timely, accurate and dependable information is essential for making well-informed decisions by everyone engaged in the development, application and enforcement of environmental law at international and national levels. One of the major challenges that legal stakeholders in developing countries and countries with economies in transition face is getting access to relevant information and material on environmental law. This is clearly evident from the recurring demand for materials on environmental law that are made to UNEP in the course of its work by judges, parliamentarians, government officials, students and teachers of environmental law at universities and other institutions, lawyers and civil society organizations engaged in protecting environmental rights of citizens for information and material on environmental law.

This publication is designed to meet that demand for legal information and material, and serve as a source of reference of basic documents on international environmental law. A companion volume on national environmental law is under preparation.

I trust that this important reference book will benefit all those engaged in the development, application and enforcement of environmental law and help them to contribute even more towards the realization of our shared goals in the area of environment and sustainable development.

Klaus Toepfer
Executive Director

FOREWORD

The United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, in Chapter 38 of Agenda 21, designated the United Nations Environment Programme (UNEP) as the principal body within the United Nations system in the field of the environment and outlined the priority areas on which UNEP should concentrate. Among these are, further development of international environmental law, in particular conventions and guidelines and promotion of its implementation; provision of technical legal and institutional advice to Governments, at their request, in establishing their national legal and institutional frameworks; and facilitation of information exchange, including information on environmental law.

The twenty-first session of the Governing Council/Global Ministerial Environment Forum, by its decision 21/23 of 9 February 2001, unanimously adopted the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (Montevideo Programme III), as the broad strategy for the activities of UNEP in the field of environmental law for the first decade of the twenty-first century. The Programme outlines eighteen programme areas in which UNEP should take action. Among these are:

1. enhancing the capacity of States to participate effectively in the development and implementation of environmental law;

2. promoting the effective implementation of international legal instruments in the field of the environment; and

3. promoting public awareness, education, information and public participation in the consideration of international environmental regimes and the development of national laws.

In line with these priorities, the Environmental Law Branch of the Division of Policy Development and Law has provided support in the area of capacity building, including the production of publications on environmental law at both national and international levels. This book is the latest in the series of such publications.

Government officials, judges, teachers, and civil society organizations, among others, particularly in developing countries and countries with economies in transition, have expressed an urgent need for easy access to environmental law materials when participating in capacity building activities organized by UNEP. These activities include training programmes, judicial symposia, and national (scoping) missions. Although there are many reference books on international law, there is a notable dearth of such books on environmental law, specifically. Where available, such books tend to be expensive and beyond the reach of many individuals and institutions. The purpose of this book is, therefore, to fill the vacuum much felt by those counterparts.

The selected texts contained in this publication are intended to be a handy reference book of up-to-date information on environmental law. It provides a source of quick and easy reference for all those engaged in the field of environmental law and policy in Governments, parliaments, judiciaries, private and public sectors, national and regional institutions, civil society organizations, and the public needing to use basic environmental law texts in the course of their daily work. It brings together key policy documents, texts of major legal instruments in the field of environmental law and sustainable development as well as basic texts in the field of international law, indispensable for carrying out work in environmental law.

I hope that the "Selected Texts of Legal Instruments in International Environmental Law" will assist those working in the area of environmental law and policy as well as its administration. I also hope that it will further increase the interest in environmental law as a tool to address current and emerging environmental challenges.

Bakary Kante
Director
Division of Policy Development and Law

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ACKNOWLEDGEMENT

I record with much appreciation the work done by the Legal Officers of the Environmental Law Branch at UNEP Headquarters in Nairobi, Sylvia Bankobeza, Barbara Ruis and Cristina Zucca in the preparation of this publication. Barbara Ruis who coordinated this work was ably supported by the DPDL Legal Officers attached to the UNEP Regional Offices, Manjit Iqbal at the Regional Office for Asia and the Pacific and Rossana Silva Repetto, at the Regional Office for Latin America and the Caribbean. I also acknowledge with thanks, the useful work done by several Interns including Malin Hollberg, Melis-Lucas Korlaar and Mr. Pieter Thomaes who located and checked materials and references and in other ways contributed to the preparation of this publication.

Lal Kurukulasuriya
Chief
Environmental Law Branch
Division of Policy Development and Law

PART I

UNEP'S LEGISLATIVE AUTHORITY IN ENVIRONMENTAL LAW

1. UN GENERAL ASSEMBLY RESOLUTION 2997 (XXVII) - INSTITUTIONAL AND FINANCIAL ARRANGEMENTS FOR INTERNATIONAL ENVIRONMENTAL COOPERATION

The General Assembly,

Convinced of the need for prompt and effective implementation by Governments and the international community of measures designed to safeguard and enhance the environment for the benefit of present and future generations of man,

Recognizing that responsibility for action to protect and enhance the environment rests primarily with Governments and, in the first instance, can be exercised more effectively at the national and regional levels,

Recognizing further that environmental problems of broad international significance fall within the competence of the United Nations system,

Bearing in mind that international co-operative programmes in the field of the environment must be undertaken with due respect for the sovereign rights of States and in conformity with the Charter of the United Nations and principles of international law,

Mindful of the sectoral responsibilities of the organizations in the United Nations system,

Conscious of the significance of regional and sub-regional cooperation in the field of the environment and of the important role of the regional economic commissions and other regional intergovernmental organizations,

Emphasizing that problems of the environment constitute a new and important area for international cooperation and that the complexity and interdependence of such problems require new approaches,

Recognizing that the relevant international scientific and other professional communities can make an important contribution to international cooperation in the field of the environment,

Conscious of the need for processes within the United Nations system which would effectively assist developing countries to implement environmental policies and programmes that are compatible with their development plans and to participate meaningfully in international environmental programmes,

Convinced that, in order to be effective, international cooperation in the field of the environment requires additional financial and technical resources,

Aware of the urgent need for a permanent institutional arrangement within the United Nations system for the protection and improvement of the environment,

Taking note of the report of the Secretary-General on the United Nations Conference on the Human Environment,

I

Governing Council of the United Nations Environment Programme

1. Decides to establish a Governing Council of the United Nations Environment Programme, composed of fifty-eight members elected by the General Assembly for three-year terms on the following basis:

   (a) Sixteen seats for African States:

   (b) Thirteen seats for Asian States:

   (c) Six seats for Eastern European States:

   (d) Ten seats for Latin American States:

   (e) Thirteen seats for Western European and other States:

2. Decides that the Governing Council shall have the following main functions and responsibilities:

   (a) To promote international co-operation in the field of the environment and to recommend, as appropriate, policies to this end;

   (b) To provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations System;

   (c) To receive and review the periodic reports of the Executive Director of the United Nations Environment Programme, referred to in section II, paragraph 2 below, on the implementation of environmental programmes within the United Nations system;

   (d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;

   (e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formulation and implementation of environmental

programmes within the United Nations system;

(f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental programmes and projects, and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;

(g) To review and approve annually the programme of utilization of resources of the Environment Fund referred to in section III below;

3. Decides that the Governing Council shall report annually to the General Assembly through the Economic and Social Council, which will transmit to the Assembly such comments on the report as it may deem necessary, particularly with regard to questions of co-ordination and to the relationship of environmental policies and programmes within the United Nations system to overall economic and social policies and priorities;

II
Environment Secretariat

1. Decides that a small secretariat shall be established in the United Nations to serve as a focal point for environmental action and co-ordination within the United Nations system in such a way as to ensure a high degree of effective management;

2. Decides that the environment secretariat shall be headed by the Executive Director of the United Nations Environment Programme, who shall be elected by the General Assembly on the nomination of the Secretary-General for a term of four years and who shall be entrusted, inter alia, with the following responsibilities:

(a) To provide substantive support to the Governing Council of the United Nations Environment Programme;

(b) To co-ordinate, under the guidance of the Governing Council, environmental programmes within the United Nations system, to keep their implementation under review and to assess their effectiveness;

(c) To advise, as appropriate and under the guidance of the Governing Council, intergovernmental bodies of the United Nations system on the formulation and implementation of environmental programmes;

(d) To secure the effective co-operation of, and contribution from, the relevant scientific and other professional communities in all parts of the world;

(e) To provide, at the request of all parties concerned, advisory services for the promotion of international co-operation in the field of the environment;

(f) To submit to the Governing Council, on his own initiative or upon request, proposals embodying medium-range and long-range planning for United Nations programmes in the field of the environment;

(g) To bring to the attention of the Governing Council any matter which he deems to require consideration by it;

(h) To administer, under the authority and policy guidance of the Governing Council, the Environment Fund referred to in section III below;

(i) To report on environmental matters to the Governing Council;

(j) To perform such other functions as may be entrusted to him by the Governing Council;

3. Decides that the costs of servicing the Governing Council and providing the small secretariat referred to in paragraph 1 above shall be borne by the regular budget of the United Nations and that operational programme costs, programme support and administrative costs of the Environment Fund established under section III below shall be borne by the Fund.

III
Environment Fund

1. Decides that, in order to provide for additional financing for environmental programmes, a voluntary fund shall be established, with effect from 1 January 1973, in accordance with existing United Nations financial procedures;

2. Decides that, in order to enable the Governinig Council of the United Nations Environment Programme to fulfil its policy-guidance role for the direction and co-ordination of environmental activities, the Environment Fund shall finance wholly or partly the costs of the new environmental initiatives undertaken within the United Nations system - which will include the initiatives envisaged in the Action Plan for the Human Environment adopted by the United Nations Conference on the Human Environment, with particular attention to integrated projects, and

such other environmental activities as may be decided upon the Governing Council - and that the Governing Council shall review these initiatives with a view to taking appropriate decisions as to their continued financing;

3. Decides that the Environment Fund shall be used for financing such programmes of general interest as regional and global monitoring, assessment and data collecting systems, including, as appropriate, costs for national counterparts; the improvement of environmental quality management; environmental research; information exchange and dissemination; public education and training; assistance for national, regional and global environmental institutions, the promotion of environmental research and studies for the development of industrial and other technologies best suited to a policy of economic growth compatible with adequate environmental safeguards; and such other programmes as the Governing Council may decide upon, and that in the implementation of such programmes due account should be taken of the special needs of the developing countries;

4. Decides that, in order to ensure that the development priorities of developing countries shall not be adversely affected, adequate measures shall be taken to provide additional financial resources on terms compatible with the economic situation of the recipient developing country, and that, to this end, the Executive Director, in co-operation with competent organizations, shall keep this problem under continuing review;

5. Decides that the Environment Fund, in pursuance of the objectives stated in paragraphs 2 and 3 above shall be directed to the need for effective co-ordination in the implementation of international environmental programmes of the organizations in the United Nations system and other international organizations;

6. Decides that, in the implementation of programmes to be financed by the Environment Fund, organizations outside the United Nations system, particularly those in the countries and regions concerned shall also be utilized as appropriate, in accordance with the procedures established by the Governing Council, and that such organizations are invited to support the United Nations environmental programmes by complementary initiatives and contributions;

7. Decides that the governing Council shall formulate such general procedures as are necessary to govern the operations of the Environment Fund;

IV
Environment Co-ordination Board

1. Decides that, in order to provide for the most efficient co-ordination of United Nations environmental programmes, an Environment Co-ordination Board, under the chairmanship of the Executive Director of the United Nations Environment Programme, shall be established under the auspices and within the framework of the Administrative Committee on Co-ordination;

2. Further decides that the Environment Co-ordination Board shall meet periodically for the purpose of ensuring co-operation and co-ordination among all bodies concerned in the implementation of environmental programmes and that it shall report annually to the Governing Council of the United Nations Environment Programme;

3. Invites the organizations of the United Nations system to adopt the measures that may be required to undertake concerted and co-ordinated programmes with regard to international environmental problems, taking into account existing procedures for prior consultation particularly on programme and budgetary matter;

4. Invites the regional economic commissions and the United Nations Economic and Social Office at Beirut, in co-operation where necessary with other appropriate regional bodies, to intensify further their efforts directed towards contributing to the implementation of environmental programmes in view of the particular need for the rapid development of regional cooperation in this field;

5. Also invites other intergovernmental and those non-governmental organizations that have an interest in the field of the environment to lend their full support and collaboration to the United Nations with a view to achieving the largest possible degree of co-operation and co-ordination;

6. Calls upon Governments to ensure that appropriate national institutions shall be entrusted with the task of the co-ordination of environmental action, both national and international;

7. Decides to review as appropriate, at its thirty first session, the above session, the above institutional arrangements, bearing in mind, inter alia, the responsibilities of the Economic and Social Council under the Charter of the United Nations.

2112th plenary meeting
15 December 1972

2. UN GENERAL ASSEMBLY RESOLUTION 3436 (XXX) - CONVENTIONS AND PROTOCOLS IN THE FIELD OF THE ENVIRONMENT

The General Assembly,

Recalling the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, which was intended, inter alia, to promote international law in the field of the environment,

Recalling with appreciation decisions 24 (III) of 30 April 1975 and 35 (III) of 2 May 1975 of the Governing Council of the United Nations Environment Programme,

Expressing the conviction that the development of adequate environmental law is an essential supporting measure for the implementation of the policies, strategies and recommendations of the United Nations Environment Programme,

Noting with satisfaction that a number of global and regional conventions and protocols in the field of the environment have been negotiated and adopted since the adoption of the Declaration of the United Nations Conference on the Human Environment,

Concerned that existing international conventions or protocols in the field of the environment have not yet received the wide acceptance and application they deserve,

Convinced of the need for further elaboration of conventions and protocols in the field of the environment,

1. Requests the Executive Director of the United Nations Environment Programme to take such measures as may be necessary for the realization of the objectives and the implementation of the strategies relating to the programme of the United Nations Environment Programme in the field of national and international environmental law and, in particular, to take measures designed to provide technical assistance to developing countries, at their request, for the development of their national environmental legislation;

2. Urges all States entitled to become parties, as appropriate, to existing conventions and protocols in the field of the environment to do so as soon as possible;

3. Requests the depositaries of the conventions referred to above to inform the Executive Director of the United Nations Environment Programme periodically of the status of those conventions;

4. Requests the Executive Director of the United Nations Environment Programme to assist States, upon request, in preparing proposals for legislative or other measures necessary for their adherence to conventions in the field of environmental management;

5. Further requests the Governing Council of the United Nations Environment Programme to keep the General Assembly informed annually of any new international convention concluded in the field of the environment and of the status of existing conventions, with particular reference to ratifications, accessions and entry into force, as well as of the intention to become parties to such conventions expressed by Governments during the year between sessions of the Council.

2432nd plenary meeting
9 December 1975

3. AGENDA 21

Chapter 8.B
Providing an Effective Legal and Regulatory Framework

Basis for Action

8.13. Laws and regulations suited to country-specific conditions are among the most important instruments for transforming environment and development policies into action, not only through "command and control" methods, but also as a normative framework for economic planning and market instruments. Yet, although the volume of legal texts in this field is steadily increasing, much of the law-making in many countries seems to be ad hoc and piecemeal, or has not been endowed with the necessary institutional machinery and authority for enforcement and timely adjustment.

8.14. While there is continuous need for law improvement in all countries, many developing countries have been affected by shortcomings of laws and regulations. To effectively integrate environment and development in the policies and practices of each country, it is essential to develop and implement integrated, enforceable and effective laws and regulations that are based upon sound social, ecological, economic and scientific principles. It is equally critical to develop workable programmes to review and enforce compliance with the laws, regulations and standards that are adopted. Technical support may be needed for many countries to accomplish these goals. Technical cooperation requirements in this field include legal information, advisory services and specialized training and institutional capacity-building.

8.15. The enactment and enforcement of laws and regulations (at the regional, national, state/provincial or local/municipal level) are also essential for the implementation of most international agreements in the field of environment and development, as illustrated by the frequent treaty obligation to report on legislative measures. The survey of existing agreements undertaken in the context of conference preparations has indicated problems of compliance in this respect, and the need for improved national implementation and, where appropriate, related technical assistance. In developing their national priorities, countries should take account of their international obligations.

Objectives

8.16. The overall objective is to promote, in the light of country-specific conditions, the integration of environment and development policies through appropriate legal and regulatory policies, instruments and enforcement mechanisms at the national, state, provincial and local level. Recognizing that countries will develop their own priorities in accordance with their needs and national and, where appropriate, regional plans, policies and programmes, the following objectives are proposed:

(a) To disseminate information on effective legal and regulatory innovations in the field of environment and development, including appropriate instruments and compliance incentives, with a view to encouraging their wider use and adoption at the national, state, provincial and local level;

(b) To support countries that request it in their national efforts to modernize and strengthen the policy and legal framework of governance for sustainable development, having due regard for local social values and infrastructures;

(c) To encourage the development and implementation of national, state, provincial and local programmes that assess and promote compliance and respond appropriately to non-compliance.

Activities

A) Making laws and regulations more effective

8.17. Governments, with the support, where appropriate, of competent international organizations, should regularly assess the laws and regulations enacted and the related institutional/administrative machinery established at the national/state and local/municipal level in the field of environment and sustainable development, with a view to rendering them effective in practice. Programmes for this purpose could include the promotion of public awareness, preparation and distribution of guidance material, and specialized training, including workshops, seminars, education programmes and conferences, for public officials who design, implement, monitor and enforce laws and regulations.

B) Establishing judicial and administrative procedures

8.18. Governments and legislators, with the support, where appropriate, of competent international organizations, should establish judicial and administrative procedures for legal redress and remedy of actions affecting environment and development that may be unlawful or infringe on rights under the law, and should provide access to individuals, groups and organizations with a recognized legal interest.

C) Providing legal reference and support services

8.19. Competent intergovernmental and non-governmental organizations could cooperate to provide Governments and legislators, upon request, with an integrated programme of environment and development law (sustainable development law) services, carefully adapted to the specific requirements of the recipient legal and administrative systems. Such systems could usefully include assistance in the

preparation of comprehensive inventories and reviews of national legal systems. Past experience has demonstrated the usefulness of combining specialized legal information services with legal expert advice. Within the United Nations system, closer cooperation among all agencies concerned would avoid duplication of databases and facilitate division of labour. These agencies could examine the possibility and merit of performing reviews of selected national legal systems.

D) Establishing a cooperative training network for sustainable development law

8.20. Competent international and academic institutions could, within agreed frameworks, cooperate to provide, especially for trainees from developing countries, postgraduate programmes and in-service training facilities in environment and development law. Such training should address both the effective application and the progressive improvement of applicable laws, the related skills of negotiating, drafting and mediation, and the training of trainers. Intergovernmental and non-governmental organizations already active in this field could cooperate with related university programmes to harmonize curriculum planning and to offer an optimal range of options to interested Governments and potential sponsors.

E) Developing effective national programmes for reviewing and enforcing compliance with national, state, provincial and local laws on environment and development

8.21. Each country should develop integrated strategies to maximize compliance with its laws and regulations relating to sustainable development, with assistance from international organizations and other countries as appropriate. The strategies could include:

(a) Enforceable, effective laws, regulations and standards that are based on sound economic, social and environmental principles and appropriate risk assessment, incorporating sanctions designed to punish violations, obtain redress and deter future violations;
(b) Mechanisms for promoting compliance;
(c) Institutional capacity for collecting compliance data, regularly reviewing compliance, detecting violations, establishing enforcement priorities, undertaking effective enforcement,and conducting periodic evaluations of the effectiveness of compliance and enforcement programmes;
(d) Mechanisms for appropriate involvement of individuals and groups in the development and enforcement of laws and regulations on environment and development.

F) National monitoring of legal follow-up to international instruments

8.22. Contracting parties to international agreements, in consultation with the appropriate secretariats of relevant international conventions as appropriate, should improve practices and procedures for collecting information on legal and regulatory measures taken. Contracting parties to international agreements could undertake sample surveys of domestic follow-up action subject to agreement by the sovereign States concerned.

Means of Implementation

A) Financing and cost evaluation

8.23. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about $6 million from the international community on grant or concessional terms. These are indicative and order of magnitude estimates only and have not been reviewed by governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes governments decide upon for implementation.

B) Scientific and technological means

8.24. The programme relies essentially on a continuation of ongoing work for legal data collection, translation and assessment. Closer cooperation between existing databases may be expected to lead to better division of labour (e.g., in geographical coverage of national legislative gazettes and other reference sources) and to improved standardization and compatibility of data, as appropriate.

C) Human resource development

8.25. Participation in training is expected to benefit practitioners from developing countries and to enhance training opportunities for women. Demand for this type of postgraduate and in-service training is known to be high. The seminars, workshops and conferences on review and enforcement that have been held to date have been very successful and well attended. The purpose of these efforts is to develop resources (both human and institutional) to design and implement effective programmes to continuously review and enforce national and local laws, regulations and standards on sustainable development.

D) Strengthening legal and institutional capacity

8.26. A major part of the programme should be oriented towards improving the legal-institutional capacities of countries to cope with national problems of governance and effective law-making and law-applying in the field of environment and sustainable development. Regional centres of excellence could be designated and supported to build up specialized databases and training facilities for linguistic/cultural groups of legal systems.

Chapter 38
International Institutional Arrangements

Basis for Action

38.1. The mandate of the United Nations Conference on Environment and Development emanates from General Assembly resolution 44/228, in which the Assembly, inter alia, affirmed that the Conference should elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of increased national and international efforts to promote sustainable and environmentally sound development in all countries and that the promotion of economic growth in developing countries is essential to address problems of environmental degradation. The intergovernmental follow-up to the Conference process shall be within the framework of the United Nations system, with the General Assembly being the supreme policy-making forum that would provide overall guidance to Governments, the United Nations system and relevant treaty bodies. At the same time, Governments, as well as regional economic and technical cooperation organizations, have a responsibility to play an important role in the follow-up to the Conference. Their commitments and actions should be adequately supported by the United Nations system and multilateral financial institutions. Thus, national and international efforts would mutually benefit from one another.

38.2. In fulfilling the mandate of the Conference, there is a need for institutional arrangements within the United Nations system in conformity with, and providing input into, the restructuring and revitalization of the United Nations in the economic, social and related fields, and the overall reform of the United Nations, including ongoing changes in the Secretariat. In the spirit of reform and revitalization of the United Nations system, implementation of Agenda 21 and other conclusions of the Conference shall be based on an action- and result-oriented approach and consistent with the principles of universality, democracy, transparency, cost-effectiveness and accountability.

38.3. The United Nations system, with its multisectoral capacity and the extensive experience of a number of specialized agencies in various spheres of international cooperation in the field of environment and development, is uniquely positioned to assist Governments to establish more effective patterns of economic and social development with a view to achieving the objectives of Agenda 21 and sustainable development.

38.4. All agencies of the United Nations system have a key role to play in the implementation of Agenda 21 within their respective competence. To ensure proper coordination and avoid duplication in the implementation of Agenda 21, there should be an effective division of labour between various parts of the United Nations system based on their terms of reference and comparative advantages. Member States, through relevant governing bodies, are in a position to ensure that these tasks are carried out properly. In order to facilitate evaluation of agencies' performance and promote knowledge of their activities, all bodies of the United Nations system should be required to elaborate and publish reports of their activities concerning the implementation of Agenda 21 on a regular basis. Serious and continuous reviews of their policies, programmes, budgets and activities will also be required.

38.5. The continued active and effective participation of non-governmental organizations, the scientific community and the private sector, as well as local groups and communities, are important in the implementation of Agenda 21.

38.6. The institutional structure envisaged below will be based on agreement on financial resources and mechanisms, technology transfer, the Rio Declaration and Agenda 21. In addition, there has to be an effective link between substantive action and financial support, and this requires close and effective cooperation and exchange of information between the United Nations system and the multilateral financial institutions for the follow-up of Agenda 21 within the institutional arrangement.

Objectives

38.7. The overall objective is the integration of environment and development issues at national, subregional, regional and international levels, including in the United Nations system institutional arrangements.

38.8. Specific objectives shall be:

(a) To ensure and review the implementation of Agenda 21 so as to achieve sustainable development in all countries;

(b) To enhance the role and functioning of the United Nations system in the field of environment and development. All relevant agencies, organizations and programmes of the United Nations system should adopt concrete programmes for the implementation of Agenda 21 and also provide policy guidance for United Nations activities or advice to Governments, upon request, within their areas of competence;

(c) To strengthen cooperation and coordination on environment and development in the United Nations system;

(d) To encourage interaction and cooperation between the United Nations system and other intergovernmental and non-governmental subregional, regional and global institutions and non-governmental organizations in the field of environment and development;

(e) To strengthen institutional capabilities and arrangements required for the effective implementation, follow-up and review of Agenda 21;

(f) To assist in the strengthening and coordination of national, subregional and regional capacities and actions in the areas of environment and development;

(g) To establish effective cooperation and exchange of information between United Nations organs, organizations, programmes and the multilateral financial bodies, within the institutional arrangements for the follow-up of Agenda 21;

(h) To respond to continuing and emerging issues relating to environment and development;

(i) To ensure that any new institutional arrangements would support revitalization, clear division of responsibilities and the avoidance of duplication in the United Nations system and depend to the maximum extent possible upon existing resources.

Institutional Structure

A. General Assembly

38.9. The General Assembly, as the highest intergovernmental mechanism, is the principal policy-making and appraisal organ on matters relating to the follow-up of the Conference. The Assembly would organize a regular review of the implementation of Agenda 21. In fulfilling this task, the Assembly could consider the timing, format and organizational aspects of such a review. In particular, the Assembly could consider holding a special session not later than 1997 for the overall review and appraisal of Agenda 21, with adequate preparations at a high level.

B. Economic and Social Council

38.10. The Economic and Social Council, in the context of its role under the Charter vis-a-vis the General Assembly and the ongoing restructuring and revitalization of the United Nations in the economic, social and related fields, would assist the General Assembly by overseeing system-wide coordination in the implementation of Agenda 21 and making recommendations in this regard. In addition, the Council would undertake the task of directing system-wide coordination and integration of environmental and developmental aspects of United Nations policies and programmes and would make appropriate recommendations to the General Assembly, specialized agencies concerned and Member States. Appropriate steps should be taken to obtain regular reports from specialized agencies on their plans and programmes related to the implementation of Agenda 21, pursuant to Article 64 of the Charter of the United Nations. The Economic and Social Council should organize a periodic review of the work of the Commission on Sustainable Development envisaged in paragraph 38.11, as well as of system-wide activities to integrate environment and development, making full use of its high-level and coordination segments.

C. Commission on Sustainable Development

38.11. In order to ensure the effective follow-up of the Conference, as well as to enhance international cooperation and rationalize the intergovernmental decision-making capacity for the integration of environment and development issues and to examine the progress in the implementation of Agenda 21 at the national, regional and international levels, a high-level Commission on Sustainable Development should be established in accordance with Article 68 of the Charter of the United Nations. This Commission would report to the Economic and Social Council in the context of the Council's role under the Charter vis-vis the General Assembly. It would consist of representatives of States elected as members with due regard to equitable geographical distribution. Representatives of non-member States of the Commission would have observer status. The Commission should provide for the active involvement of organs, programmes and organizations of the United Nations system, international financial institutions and other relevant intergovernmental organizations, and encourage the participation of non-governmental organizations, including industry and the business and scientific communities. The first meeting of the Commission should be convened no later than 1993. The Commission should be supported by the secretariat envisaged in paragraph 38.19. Meanwhile the Secretary-General of the United Nations is requested to ensure adequate interim administrative secretariat arrangements.

38.12. The General Assembly, at its forty-seventh session, should determine specific organizational modalities for the work of this Commission, such as its membership, its relationship with other intergovernmental United Nations bodies dealing with matters related to environment and development, and the frequency, duration and venue of its meetings. These modalities should take into account the ongoing process of revitalization and restructuring of the work of the United Nations in the economic, social and related fields, in particular measures recommended by the General Assembly in resolutions 45/264 of 13 May 1991 and 46/235 of 13 April 1992 and other relevant Assembly resolutions. In this respect, the Secretary-General of the United Nations, with the assistance of the Secretary-General of the United Nations Conference on Environment and Development, is requested to prepare for the Assembly a report with appropriate recommendations and proposals.

38.13. The Commission on Sustainable Development should have the following functions:

(a) To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the United Nations system through analysis and evaluation of reports from all relevant organs, organizations, programmes and institutions of the United Nations system dealing with various issues of environment and development, including those related to finance;

(b) To consider information provided by Governments, including, for example, information in the form of periodic communications or national reports regarding the activities they undertake to implement Agenda 21, the problems they face, such as problems related to financial resources and technology transfer, and other environment and development issues they find relevant;

(c) To review the progress in the implementation of the commitments contained in Agenda 21, including those related to provision of financial resources and transfer of technology;

(d) To receive and analyse relevant input from competent non-governmental organizations, including the scientific and private sectors, in the context of the overall implementation of Agenda 21;

(e) To enhance the dialogue, within the framework of the United Nations, with non-governmental organizations and the independent sector, as well as other entities outside the United Nations system;

(f) To consider, where appropriate, information regarding the progress made in the implementation of environmental conventions, which could be made available by the relevant Conferences of Parties;

(g) To provide appropriate recommendations to the General Assembly through the Economic and Social Council on the basis of an integrated consideration of the reports and issues related to the implementation of Agenda 21;

(h) To consider, at an appropriate time, the results of the review to be conducted expeditiously by the Secretary-General of all recommendations of the Conference for capacity-building programmes, information networks, task forces and other mechanisms to support the integration of environment and development at regional and subregional levels.

38.14. Within the intergovernmental framework, consideration should be given to allowing non-governmental organizations, including those related to major groups, particularly women's groups, committed to the implementation of Agenda 21 to have relevant information available to them, including information, reports and other data produced within the United Nations system.

D. The Secretary-General

38.15. Strong and effective leadership on the part of the Secretary-General is crucial, since he/she would be the focal point of the institutional arrangements within the United Nations system for the successful follow-up to the Conference and for the implementation of Agenda 21.

E. High-level inter-agency coordination mechanism

38.16. Agenda 21, as the basis for action by the international community to integrate environment and development, should provide the principal framework for coordination of relevant activities within the United Nations system. To ensure effective monitoring, coordination and supervision of the involvement of the United Nations system in the follow-up to the Conference, there is a need for a coordination mechanism under the direct leadership of the Secretary-General.

38.17. This task should be given to the Administrative Committee on Coordination (ACC), headed by the Secretary-General. ACC would thus provide a vital link and interface between the multilateral financial institutions and other United Nations bodies at the highest administrative level. The Secretary-General should continue to revitalize the functioning of the Committee. All heads of agencies and institutions of the United Nations system shall be expected to cooperate with the Secretary-General fully in order to make ACC work effectively in fulfilling its crucial role and ensure successful implementation of Agenda 21. ACC should consider establishing a special task force, subcommittee or sustainable development board, taking into account the experience of the Designated Officials for Environmental Matters (DOEM) and the Committee of International Development Institutions on Environment (CIDIE), as well as the respective roles of UNEP and UNDP. Its report should be submitted to the relevant intergovernmental bodies.

F. High-level advisory body

38.18. Intergovernmental bodies, the Secretary-General and the United Nations system as a whole may also benefit from the expertise of a high-level advisory board consisting of eminent persons knowledgeable about environment and development, including relevant sciences, appointed by the Secretary-General in their personal capacity. In this regard, the Secretary-General should make appropriate recommendations to the General Assembly at its forty-seventh session.

G. Secretariat support structure

38.19. A highly qualified and competent secretariat support structure within the United Nations Secretariat, drawing, inter alia, on the expertise gained in the Conference preparatory process is essential for the follow-up to the Conference and the implementation of Agenda 21. This secretariat support structure should provide support to the work of both intergovernmental and inter-agency coordination mechanisms. Concrete organizational decisions fall within the competence of the Secretary-General as the chief administrative officer of the Organization, who is requested to report on the provisions to be made, covering staffing implications, as soon as practicable, taking into account gender balance as defined in Article 8 of the Charter of the United Nations and the need for the best use of existing resources in the context of the current and ongoing restructuring of the United Nations Secretariat.

H. Organs, programmes and organizations of the United Nations system

38.20. In the follow-up to the Conference, in particular the implementation of Agenda 21, all relevant organs, programmes and organizations of the United Nations system will have an important role within their respective areas of expertise and mandates in supporting and supplementing national efforts. Coordination and mutual complementarity of their efforts to promote integration of environment and development can be enhanced by encouraging countries to maintain consistent positions in the various governing bodies.

1. United Nations Environment Programme

38.21. In the follow-up to the Conference, there will be a need for an enhanced and strengthened role for UNEP and its Governing Council. The Governing Council should, within its mandate, continue to play its role with regard to policy guidance and coordination in the field of the environment, taking into account the development perspective.

38.22. Priority areas on which UNEP should concentrate include the following:

(a) Strengthening its catalytic role in stimulating and promoting environmental activities and considerations throughout the United Nations system;

(b) Promoting international cooperation in the field of environment and recommending, as appropriate, policies to this end;

(c) Developing and promoting the use of such techniques as natural resource accounting and environmental economics;

(d) Environmental monitoring and assessment, both through improved participation by the United Nations system agencies in the Earthwatch programme and expanded relations with private scientific and non-governmental research institutes; strengthening and making operational its early-warning function;

(e) Coordination and promotion of relevant scientific research with a view to providing a consolidated basis for decision-making;

(f) Dissemination of environmental information and data to Governments and to organs, programmes and organizations of the United Nations system;

(g) Raising general awareness and action in the area of environmental protection through collaboration with the general public, non-governmental entities and intergovernmental institutions;

(h) Further development of international environmental law, in particular conventions and guidelines, promotion of its implementation, and coordinating functions arising from an increasing number of international legal agreements, inter alia, the functioning of the secretariats of the Conventions, taking into account the need for the most efficient use of resources, including possible co-location of secretariats established in the future;

(i) Further development and promotion of the widest possible use of environmental impact assessments, including activities carried out under the auspices of specialized agencies of the United Nations system, and in connection with every significant economic development project or activity;

(j) Facilitation of information exchange on environmentally sound technologies, including legal aspects, and provision of training;

(k) Promotion of subregional and regional cooperation and support to relevant initiatives and programmes for environmental protection, including playing a major contributing and coordinating role in the regional mechanisms in the field of environment identified for the follow-up to the Conference;

(l) Provision of technical, legal and institutional advice to Governments, upon request, in establishing and enhancing their national legal and institutional frameworks, in particular, in cooperation with UNDP capacity-building efforts;

(m) Support to Governments, upon request, and development agencies and organs in the integration of environmental aspects into their development policies and programmes, in particular through provision of environmental, technical and policy advice during programme formulation and implementation;

(n) Further developing assessment and assistance in cases of environmental emergencies.

38.23. In order to perform all of these functions, while retaining its role as the principal body within the United Nations system in the field of environment and taking into account the development aspects of environmental questions, UNEP would require access to greater expertise and provision of adequate financial resources and it would require closer cooperation and collaboration with development organs and other relevant organs of the United Nations system. Furthermore, the regional offices of UNEP should be strengthened without weakening its headquarters in Nairobi, and UNEP should take steps to reinforce and intensify its liaison and interaction with UNDP and the World Bank.

2. United Nations Development Programme

38.24. UNDP, like UNEP, also has a crucial role in the follow-up to the United Nations Conference on Environment and Development. Through its network of field offices it would foster the United Nations system's collective thrust in support of the implementation of Agenda 21, at the country, regional, interregional and global levels, drawing on the expertise of the specialized agencies and other United Nations organizations and bodies involved in operational activities. The role of the resident representative/resident coordinator of UNDP needs to be strengthened in order to coordinate the field-level activities of the United Nations operational activities.

38.25. Its role should include the following:

(a) Acting as the lead agency in organizing United Nations system efforts towards capacity-building at the local, national and regional levels;

(b) Mobilizing donor resources on behalf of Governments for capacity-building in recipient countries and, where appropriate, through the use of the UNDP donor round-table mechanisms;

(c) Strengthening its own programmes in support of follow-up to the Conference without prejudice to the fifth programming cycle;

(d) Assisting recipient countries, upon request, in the establishment and strengthening of national coordination mechanisms and networks related to activities for the follow-up to the Conference;

(e) Assisting recipient countries, upon request, in coordinating the mobilization of domestic financial resources;

(f) Promoting and strengthening the role and involvement of women, youth and other major groups in recipient countries in the implementation of Agenda 21.

3. United Nations Conference on Trade and Development

38.26. UNCTAD should play an important role in the implementation of Agenda 21 as extended at its eighth session, taking into account the importance of the interrelationships between development, international trade and the environment and in accordance with its mandate in the area of sustainable development.

4. United Nations Sudano-Sahelian Office

38.27. The role of the United Nations Sudano-Sahelian Office (UNSO), with added resources that may become available, operating under the umbrella of UNDP and with the support of UNEP, should be strengthened so that it can assume an appropriate major advisory role and participate effectively in the implementation of Agenda 21 provisions related to combating drought and desertification and to land resource management. In this context, the experience gained could be used by all other countries affected by drought and desertification, in particular those in Africa, with special attention to countries most affected or classified as least developed countries.

5. Specialized agencies of the United Nations system and related organizations and other relevant intergovernmental organizations

38.28. All specialized agencies of the United Nations system, related organizations and other relevant intergovernmental organizations within their respective fields of competence have an important role to play in the implementation of relevant parts of Agenda 21 and other decisions of the Conference. Their governing bodies may consider ways of strengthening and adjusting activities and programmes in line with Agenda 21, in particular, regarding projects for promoting sustainable development. Furthermore, they may consider establishing special arrangements with donors and financial institutions for project implementation that may require additional resources.

I. Regional and subregional cooperation and implementation

38.29. Regional and subregional cooperation will be an important part of the outcome of the Conference. The regional commissions, regional development banks and regional economic and technical cooperation organizations, within their respective agreed mandates, can contribute to this process by:

(a) Promoting regional and subregional capacity-building;

(b) Promoting the integration of environmental concerns in regional and subregional development policies;

(c) Promoting regional and subregional cooperation, where appropriate, regarding transboundary issues related to sustainable development.

38.30. The regional commissions, as appropriate, should play a leading role in coordinating regional and subregional activities by sectoral and other United Nations bodies and shall assist countries in achieving sustainable development. The commissions and regional programmes within the United Nations system, as well as other regional organizations, should review the need for modification of ongoing activities, as appropriate, in light of Agenda 21.

38.31. There must be active cooperation and collaboration among the regional commissions and other relevant organizations, regional development banks, non-governmental organizations and other institutions at the regional level. UNEP and UNDP, together with the regional commissions, would have a crucial role to play, especially in providing the necessary assistance, with particular emphasis on building and strengthening the national capacity of Member States.

38.32. There is a need for closer cooperation between UNEP and UNDP, together with other relevant institutions, in the implementation of projects to halt environmental degradation or its impact and to support training programmes in environmental planning and management for sustainable development at the regional level.

38.33. Regional intergovernmental technical and economic organizations have an important role to play in helping Governments to take coordinated action in solving environment issues of regional significance.

38.34. Regional and subregional organizations should play a major role in the implementation of the provisions of Agenda 21 related to combating drought and desertification. UNEP, UNDP and UNSO should assist and cooperate with those relevant organizations.

38.35. Cooperation between regional and subregional organizations and relevant organizations of the United Nations system should be encouraged, where appropriate, in other sectoral areas.

J. National implementation

38.36. States have an important role to play in the follow-up of the Conference and the implementation of Agenda 21. National level efforts should be undertaken by all countries in an integrated manner so that both environment and development concerns can be dealt with in a coherent manner.
38.37. Policy decisions and activities at the national level, tailored to support and implement Agenda 21, should be supported by the United Nations system upon request.

38.38. Furthermore, States could consider the preparation of national reports. In this context, the organs of the United Nations system should, upon request, assist countries, in particular developing countries. Countries could also consider the preparation of national action plans for the implementation of Agenda 21.

38.39. Existing assistance consortia, consultative groups and round tables should make greater efforts to integrate environmental considerations and related development objectives into their development assistance strategies and should consider reorienting and appropriately adjusting their memberships and operations to facilitate this process and better support national efforts to integrate environment and development.

38.40. States may wish to consider setting up a national coordination structure responsible for the follow-up of Agenda 21. Within this structure, which would benefit from the expertise of non-governmental organizations, submissions and other relevant information could be made to the United Nations.

K. Cooperation between United Nations bodies and international financial organizations

38.41. The success of the follow-up to the Conference is dependent upon an effective link between substantive action and financial support, and this requires close and effective cooperation between United Nations bodies and the multilateral financial organizations. The Secretary-General and heads of United Nations programmes, organizations and the multilateral financial organizations have a special responsibility in forging such cooperation, not only through the United Nations high-level coordination mechanism (Administrative Committee on Coordination) but also at regional and national levels. In particular, representatives of multilateral financial institutions and mechanisms, as well as IFAD, should actively be associated with deliberations of the intergovernmental structure responsible for the follow-up to Agenda 21.

L. Non-governmental organizations

38.42. Non-governmental organizations and major groups are important partners in the implementation of Agenda 21. Relevant non-governmental organizations, including the scientific community, the private sector and women's groups, should be given opportunities to make their contributions and establish appropriate relationships with the United Nations system. Support should be provided for developing countries' non-governmental organizations and their self-organized networks.

38.43. The United Nations system, including international finance and development agencies, and all intergovernmental organizations and forums should, in consultation with non-governmental organizations, take measures to:

(a) Design open and effective means to achieve the participation of non-governmental organizations, including those related to major groups, in the process established to review and evaluate the implementation of Agenda 21 at all levels and promote their contribution to it;

(b) Take into account the findings of review systems and evaluation processes of non-governmental organizations in relevant reports of the Secretary-General to the General Assembly and all pertinent United Nations agencies and intergovernmental organizations and forums concerning implementation of Agenda 21 in accordance with the review process.

38.44. Procedures should be established for an expanded role for non-governmental organizations, including those related to major groups, with accreditation based on the procedures used in the Conference. Such organizations should have access to reports and other information produced by the United Nations system. The General Assembly, at an early stage, should examine ways of enhancing the involvement of non-governmental organizations within the United Nations system in relation to the follow-up process of the Conference.

38.45. The Conference takes note of other institutional initiatives for the implementation of Agenda 21, such as the proposal to establish a non-governmental Earth Council and the proposal to appoint a guardian for future generations, as well as other initiatives taken by local governments and business sectors.

Chapter 39
International Legal Instruments and Mechanisms

Basis for Action

39.1. The recognition that the following vital aspects of the universal, multilateral and bilateral treaty-making process should be taken into account:

(a) The further development of international law on sustainable development, giving special attention to the delicate balance between environmental and developmental concerns;

(b) The need to clarify and strengthen the relationship between existing international instruments or agreements in the field of environment and relevant social and economic agreements or instruments, taking into account the special needs of developing countries;

(c) At the global level, the essential importance of the participation in and the contribution of all countries, including the developing countries, to treaty making in the field of international law on sustainable development. Many of the existing international legal instruments and agreements in the field of environment have been developed without adequate participation and contribution of developing countries, and thus may require review in order to reflect the concerns and interests of developing countries and to ensure a balanced governance of such instruments and agreements;

(d) Developing countries should also be provided with technical assistance in their attempts to enhance their national legislative capabilities in the field of environmental law;

(e) Future projects for the progressive development and codification of international law on sustainable development should take into account the ongoing work of the International Law Commission;

(f) Any negotiations for the progressive development and codification of international law concerning sustainable development should, in general, be conducted on a universal basis, taking into account special circumstances in the various regions.

Objectives

39.2. The overall objective of the review and development of international environmental law should be to evaluate and to promote the efficacy of that law and to promote the integration of environment and development policies through effective international agreements or instruments taking into account both universal principles and the particular and differentiated needs and concerns of all countries.

39.3. Specific objectives are:

(a) To identify and address difficulties which prevent some States, in particular developing countries, from participating in or duly implementing international agreements or instruments and, where appropriate, to review and revise them with the purposes of integrating environmental and developmental concerns and laying down a sound basis for the implementation of these agreements or instruments;

(b) To set priorities for future law-making on sustainable development at the global, regional or subregional level, with a view to enhancing the efficacy of international law in this field through, in particular, the integration of environmental and developmental concerns;

(c) To promote and support the effective participation of all countries concerned, in particular developing countries, in the negotiation, implementation, review and governance of international agreements or instruments, including appropriate provision of technical and financial assistance and other available mechanisms for this purpose, as well as the use of differential obligations where appropriate;

(d) To promote, through the gradual development of universally and multilaterally negotiated agreements or instruments, international standards for the protection of the environment that take into account the different situations and capabilities of countries. States recognize that environmental policies should deal with the root causes of environmental degradation, thus preventing environmental measures from resulting in unnecessary restrictions to trade. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing international environmental problems should, as far as possible, be based on an international consensus. Domestic measures targeted to achieve certain environmental objectives may need trade measures to render them effective. Should trade policy measures be found necessary for the enforcement of environmental policies, certain principles and rules should apply. These could include, inter alia, the principle of non-discrimination; the principle that the trade measure chosen should be the least trade-restrictive necessary to achieve the objectives; an obligation to ensure transparency in the use of trade measures related to the environment and to provide adequate notification of national regulations; and the need to give consideration to the special conditions and development requirements of developing countries as they move towards internationally agreed environmental objectives;

(e) To ensure the effective, full and prompt implementation of legally binding instruments and to facilitate timely review and adjustment of agreements or instruments by the parties concerned, taking into account the special needs and concerns of all countries, in particular developing countries;

(f) To improve the effectiveness of institutions, mechanisms and procedures for the administration of agreements and instruments;

(g) To identify and prevent actual or potential conflicts, particularly between environmental and social/economic agreements or instruments, with a view to ensuring that such agreements or instruments are consistent. Where conflicts arise they should be appropriately resolved;

(h) To study and consider the broadening and strengthening of the capacity of mechanisms, inter alia, in the United Nations system, to facilitate, where appropriate and agreed to by the parties concerned, the identification, avoidance and settlement of international disputes in the field of sustainable development, duly taking into account existing bilateral and multilateral agreements for the settlement of such disputes.

Activities

39.4. Activities and means of implementation should be considered in the light of the above basis for action and objectives, without prejudice to the right of every State to put forward suggestions in this regard in the General Assembly. These suggestions could be reproduced in a separate compilation on sustainable development.

A. Review, assessment and fields of action in international law for sustainable development

39.5. While ensuring the effective participation of all countries concerned, Parties should at periodic intervals review and assess both the past performance and effectiveness of existing international agreements or instruments as well as the priorities for future law making on sustainable development. This may include an examination of the feasibility of elaborating general rights and obligations of States, as appropriate, in the field of sustainable development, as provided by General Assembly resolution 44/228. In certain cases, attention should be given to the possibility of taking into account varying circumstances through differential obligations or gradual application. As an option for carrying out this task, earlier UNEP practice may be followed whereby legal experts designated by Governments could meet at suitable intervals, to be decided later, with a broader environmental and developmental perspective.

39.6. Measures in accordance with international law should be considered to address, in times of armed conflict, large-scale destruction of the environment that cannot be justified under international law. The General Assembly and its Sixth Committee are the appropriate forums to deal with this subject. The specific competence and role of the International Committee of the Red Cross should be taken into account.

39.7. In view of the vital necessity of ensuring safe and environmentally sound nuclear power, and in order to strengthen international cooperation in this field, efforts should be made to conclude the ongoing negotiations for a nuclear safety convention in the framework of the International Atomic Energy Agency.

B. Implementation mechanisms

39.8. The parties to international agreements should consider procedures and mechanisms to promote and review their effective, full and prompt implementation. To that effect, States could, inter alia:

(a) Establish efficient and practical reporting systems on the effective, full and prompt implementation of international legal instruments;

(b) Consider appropriate ways in which relevant international bodies, such as UNEP, might contribute towards the further development of such mechanisms.

C. Effective participation in international law making

39.9. In all these activities and others that may be pursued in the future, based on the above basis for action and objectives, the effective participation of all countries, in particular developing countries, should be ensured through appropriate provision of technical assistance and/or financial assistance. Developing countries should be given "headstart" support not only in their national efforts to implement international agreements or instruments, but also to participate effectively in the negotiation of new or revised agreements or instruments and in the actual international operation of such agreements or instruments. Support should include assistance in building up expertise in international law particularly in relation to sustainable development, and in assuring access to the necessary reference information and scientific/technical expertise.

D. Disputes in the field of sustainable development

39.10. In the area of avoidance and settlement of disputes, States should further study and consider methods to broaden and make more effective the range of techniques available at present, taking into account, among others, relevant experience under existing international agreements, instruments or institutions and, where appropriate, their implementing mechanisms such as modalities for dispute avoidance and settlement. This may include mechanisms and procedures for the exchange of data and information, notification and consultation regarding situations that might lead to disputes with other States in the field of sustainable development and for effective peaceful means of dispute settlement in accordance with the Charter of the United Nations, including, where appropriate, recourse to the International Court of Justice, and their inclusion in treaties relating to sustainable development.

4. UNEP GOVERNING COUNCIL DECISION 19/1: NAIROBI DECLARATION ON THE ROLE AND MANDATE OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

We, the ministers and heads of delegation attending the nineteenth session of the Governing Council of the United Nations Environment Programme, held in Nairobi from 27 January to 7 February 1997,

Recalling the goal of the Rio Declaration on Environment and Development, / which is to establish a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of society and people,

Reiterating our commitment to the implementation of the Rio Declaration, Agenda 21, and the Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests, adopted by the United Nations Conference on Environment and Development, as well as other environmental conventions agreed upon in the Rio process,

Recognizing the progress made in the implementation of the Rio agreements,

Deeply concerned, nevertheless, at the continuing deterioration of the global environment, including the worsening trends in environmental pollution and the degradation of natural resources, as reflected in the Global Environment Outlook report of the United Nations Environment Programme,

Aware of the rapid changes currently taking place in the world and the increasing complexity and fragmentation of the institutional responses to them, as well as the far-reaching significance of the concept of sustainable development which encompasses economic, social and environmental dimensions, supported by capacity-building, transfer of technology and financial resources to developing countries, in particular least developed countries,

Convinced that a strong, effective and revitalized United Nations Environment Programme is essential to assist the international community in its efforts to reverse environmentally unsustainable trends,

Aware that the special session of the General Assembly for the purpose of an overall review and appraisal of the implementation of Agenda 21 offers a unique opportunity to review and appraise the follow-up to the United Nations Conference on Environment and Development and to confirm the revitalized role of the United Nations Environment Programme,

Determined to assist the General Assembly in this important task, and guided by the principles agreed in the Rio Declaration on Environment and Development,

Declare:

1. That the United Nations Environment Programme has been and should continue to be the principal United Nations body in the field of the environment and that we, the ministers of the environment and heads of delegation attending the nineteenth session of the Governing Council, are determined to play a stronger role in the implementation of the goals and objectives of the United Nations Environment Programme;

2. That the role of the United Nations Environment Programme is to be the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and that serves as an authoritative advocate for the global environment;

3. That to this end, we reaffirm the continuing relevance of the mandate of the United Nations Environment Programme deriving from General Assembly resolution 2997 (XXVII) of 15 December 1972 and further elaborated by Agenda 21. The core elements of the focused mandate of the revitalized United Nations Environment Programme should be the following:

(a) To analyse the state of the global environment and assess global and regional environmental trends, provide policy advice, early warning information on environmental threats, and to catalyse and promote international cooperation and action, based on the best scientific and technical capabilities available;

(b) To further the development of its international environmental law aiming at sustainable development, including the development of coherent interlinkages among existing international environmental conventions;

(c) To advance the implementation of agreed international norms and policies, to monitor and foster compliance with environmental principles and international agreements and stimulate cooperative action to respond to emerging environmental challenges;

(d) To strengthen its role in the coordination of environmental activities in the United Nations system in the field of the environment, as well as its role as an Implementing Agency of the Global Environment Facility, based on its comparative advantage and scientific and technical expertise;

(e) To promote greater awareness and facilitate effective cooperation among all sectors of society and actors involved in the implementation of the international environmental agenda, and to serve as an effective link between the scientific community and policy makers at the national and international levels;

(f) To provide policy and advisory services in key areas of institution-building to Governments and other relevant institutions;

4. That, for the effective discharge of its focused mandate and to ensure the implementation of the global environmental agenda, we have decided to improve the governance structure of United Nations Environment Programme. In doing so, we have been guided by the following considerations:

(a) The United Nations Environment Programme should serve as the world forum for the policy and decision-making processes of the United Nations Environment Programme;

(b) Regionalization and decentralization should be strengthened through the increased Involvement and participation of regional ministerial and other relevant forums in the United Nations Environment Programme process, complementary to the central coordinating role of the Programme's headquarters in Nairobi;

(c) The participation of major groups should be increased;

(d) A cost-effective and politically influential inter-sessional mechanism should be designed;

5. That, in order to operationalize its mandate, the revitalized United Nations Environment Programme needs adequate, stable and predictable financial resources and, in this regard, we recognize the interrelationship between excellence, relevance and cost-effectiveness in programme delivery, confidence in the organization and a consequent increase in the competitive ability of the Programme to attract funding;

6. That ways must be sought to assure financial stability for the implementation of the global environmental agenda. In this regard, the predictability and early notification of expected contributions to the Environment Fund would facilitate an effective planning and programming process;

7. That we reaffirm the central importance of the Environment Fund as the principal source of financing for the implementation of the programme of the United Nations Environment Programme;

8. That we are convinced that the expeditious implementation of our decisions and the principles contained in this Declaration, adopted in the year of the twenty-fifth anniversary of the founding of the United Nations Environment Programme, will revitalize and strengthen the organization and place it at the forefront of international efforts to protect the global environment for present and future generations and in the pursuit of sustainable development;

9. That we request the President of the Governing Council to present this Declaration to the high-level segment of the fifth session of the Commission on Sustainable Development and to the special session of the General Assembly for the purpose of an overall review and appraisal of the implementation of Agenda 21.

5. UN GENERAL ASSEMBLY RESOLUTION 53/242: REPORT OF THE SECRETARY-GENERAL ON ENVIRONMENT AND HUMAN SETTLEMENTS

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The General Assembly,

Recalling its resolution 52/12 A of 12 November 1997, entitled "Renewing the United Nations: a programme for reform",

Reaffirming its determination to strengthen the role, capacity, effectiveness and efficiency of the United Nations, including in the field of environment and human settlements, and thus improve its performance in order to realize the full potential of the Organization,

Taking note of the report of the Secretary-General on environment and human settlements and the report of the United Nations Task Force on Environment and Human Settlements annexed thereto, which contains recommendations on reforming and strengthening the activities of the United Nations in the field of environment and human settlements,

Expressing its appreciation to the Chairman and members of the Task Force for their commendable work,

Conscious of the continued deterioration of the global environment and the state of human settlements, despite some positive achievements, as well as of the need to strengthen the institutions of the United Nations charged with responsibility for environment and human settlements, to improve their performance and to promote coordination in the implementation of the environmental and human settlements dimension of sustainable development within the United Nations system,

Emphasizing the importance of strengthening the capacity of the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat) in their Nairobi location and of ensuring the provision of requisite support and stable, adequate and predictable financial resources necessary to both organizations for the fulfilment of their mandates, as contained in General Assembly resolutions 2997 (XXVII) of 15 December 1972 and 32/162 of 19 December 1977, as well as in the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme, adopted by the Governing Council of the United Nations Environment Programme in its decision 19/1 of 7 February 1997, and the Istanbul Declaration on Human Settlements, adopted by the United Nations Conference on Human Settlements (Habitat II) on 14 June 1996, including by seeking additional financial resources through broadening the range of sources of funding for both organizations, in accordance with the Financial Regulations and Rules of the United Nations,

Taking into account the views of Member States on the report of the Secretary-General on environment and human settlements,

Taking into account also the views contained in decision 20/17, adopted on 5 February 1999 by the Governing Council of the United Nations Environment Programme, and Commission on Human Settlements resolution 17/6 of 14 May 1999, concerning the report of the Secretary-General on environment and human settlements,

1. *Welcomes* the efforts undertaken to strengthen the United Nations in the field of environment and human settlements, and in that context takes note of the general thrust of the recommendations contained in the report of the Secretary-General on environment and human settlements, proposing actions to be taken by the Secretary-General, the Executive Director of the United Nations Environment Programme and the Executive Director of the United Nations Centre for Human Settlements (Habitat), and takes note also of the recommendations outlined in section IV of the report;

2. *Requests* the Secretary-General to strengthen the United Nations Office at Nairobi, in its capacity as the only United Nations headquarters located in a developing country, through the provision of requisite support and stable, adequate and predictable financial resources, including by proposing additional regular budget resources, as envisaged by the General Assembly in its resolution 52/220 of 22 December 1997, for the consideration of the Assembly, with due regard for proper United Nations budgetary procedures;

3. *Encourages* the Director-General of the United Nations Office at Nairobi to take steps to increase the level of utilization of the Office, and in this regard encourages other agencies, funds and programmes to consider increasing their utilization of its facilities for their activities;

4. *Calls upon* the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat) to increase cooperation in and strengthen coordination of their activities, within the framework of their respective mandates and separate programmatic and organizational identities, as well as their separate Executive Directors;

5. *Supports* the proposal of the Secretary-General regarding the establishment of an environmental management group for the purpose of enhancing inter-agency coordination in the field of environment and human settlements, and requests the Secretary-General to develop, in consultation with the Member States and members of the Administrative Committee on Coordination, the mandate, terms of reference, appropriate criteria for membership and flexible, cost-effective working methods of the proposed environmental management group and to submit them to the General Assembly for consideration at its fifty-fourth session;

6. *Welcomes* the proposal to institute an annual, ministerial-level, global environmental forum, with the Governing Council of the United Nations Environment Programme constituting the forum in the years that it meets in regular session and, in alternate years, with the forum taking the form of a special session of the Governing Council, in which participants can gather to review important and emerging policy issues in the field of the environment, with due consideration for the need to ensure the effective and efficient functioning of the governance mechanisms of the United Nations Environment Programme, as well as possible financial implications, and the need to maintain the role of the Commission on Sustainable Development as the main forum for high-level policy debate on sustainable development;

7. *Supports* the proposals for the facilitation of and support for enhancing linkages and coordination within and among environmental and environment-related conventions, including by the United Nations Environment Programme, with full respect for the status of the respective convention secretariats and the autonomous decision-making prerogatives of the conferences of the parties to the conventions concerned, and emphasizes in this regard the need to provide the United Nations Environment Programme with adequate resources to perform this task;

8. *Welcomes* the proposals for the involvement, participation and constructive engagement of major groups active in the field of environment and human settlements, with due consideration for the relevant rules, regulations and procedures of the United Nations;

9. *Reiterates* the importance of strengthening the capacity and capability of the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat), within the framework of their existing mandates, in the areas of information, the monitoring and assessment of global and regional environmental and human settlements trends and early warning information on environmental threats, so as to catalyse and promote international cooperation and action, and in this context emphasizes the importance of strengthening the system-wide Earthwatch as an effective, accessible and strictly non-political science-based system;

10. *Reaffirms* that, in accordance with its mandate, the United Nations Environment Programme should not become involved in conflict identification, prevention or resolution;

11. *Stresses* the need to ensure that capacity-building and technical assistance, in particular with respect to institutional strengthening in developing countries, as well as research and scientific studies in the field of environment and human settlements, must remain important components of the work programmes of both the United Nations Environment Programme and the United Nations Centre for Human Settlements (Habitat), within their existing mandates, and also stresses, in this regard, the need for adequate financial resources as well as the need to avoid duplication of efforts;

12. *Also stresses* the need to enhance further the role of the United Nations Environment Programme as an implementing agency of the Global Environment Facility, consistent with its role as defined in the Instrument for the Establishment of the Restructured Global Environment Facility;

13. *Reaffirms* the role of the Commission on Human Settlements in the implementation of the Habitat Agenda,7 emphasizes the need for it to take steps to prepare for the review of its implementation in 2001, and welcomes the proposals that the United Nations Centre for Human Settlements (Habitat) should strengthen its core activities and develop into a centre for excellence with regard to human settlements;

14. *Welcomes* the proposal to continue ongoing work in the development of indicators in the field of environment and human settlements, and in this regard stresses the importance of the need to avoid duplication of efforts;

15. *Requests* the Secretary-General to submit to the General Assembly at its fifty-fourth session a report on the implementation of the present resolution.

105th plenary meeting
28 July 1999

6. MALMÖ MINISTERIAL DECLARATION ADOPTED BY THE GLOBAL MINISTERIAL ENVIRONMENTAL FORUM - SIXTH SPECIAL SESSION OF THE GOVERNING COUNCIL OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

We, Ministers of Environment and heads of delegation meeting in Malmö, Sweden from 29 to 31 May 2000, on the occasion of the first Global Ministerial Environment Forum, held in pursuance of United Nations General Assembly resolution 53/242 of 28 July 1999 to enable the world's environment ministers to gather to review important and emerging environmental issues and to chart the course for the future,

Recalling the Stockholm Declaration of the United Nations Conference on the Human Environment and the Rio Declaration of the United Nations Conference on Environment and Development, the Declaration of Barbados on the Sustainable Development of Small Island Developing States as well as the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme,

Deeply concerned that, despite the many successful and continuing efforts of the international community since the Stockholm Conference, and some progress having been achieved, the environment and the natural resource base that supports life on Earth continue to deteriorate at an alarming rate,

Reaffirming the importance of the speedy implementation of the political and legal commitments entered into by the international community, in particular at the Rio Conference,

Convinced that urgent and renewed efforts are required to be undertaken by all countries in a spirit of international solidarity, and recognizing, inter alia, the principle of common but differentiated responsibility as contained in the Rio Principles to manage the environment so as to promote sustainable development for the benefit of present and future generations,

Conscious that the root causes of global environmental degradation are embedded in social and economic problems such as pervasive poverty, unsustainable production and consumption patterns, inequity in distribution of wealth, and the debt burden,

Also conscious that success in combating environmental degradation is dependent on the full participation of all actors in society, an aware and educated population, respect for ethical and spiritual values and cultural diversity, and protection of indigenous knowledge,

Aware that the 10-year review and appraisal of the implementation of Agenda 21 to be conducted in 2002 will provide a further opportunity for the international community to take action to implement its commitments and to strengthen international cooperation urgently required to address the challenges of sustainable development in the twenty-first century,

Convinced that the Millennium Summit of the fifty-fifth session of the United Nations General Assembly provides a unique opportunity to address at the highest level the role of the United Nations in the field of sustainable development, and noting in this regard the proposals of the Secretary-General of the United Nations as contained in his report 'We the peoples: the role of the United Nations in the twenty-first century which will serve as the basis of discussion at the Summit,

Determined to contribute to this historic endeavour from an environmental perspective, and having requested the President of the Governing Council to bring the following matters to the attention of the fifty-fifth session of the General Assembly, the Millennium Assembly

Declare that:

Major environmental challenges of the twenty-first century

1. The year 2000 marks a defining moment in the efforts of the international community to ensure that the growing trends of environmental degradation that threaten the sustainability of the planet are arrested and reversed. Hence there is an urgent need for reinvigorated international cooperation based on common concerns and a spirit of international partnership and solidarity.

2. There is an alarming discrepancy between commitments and action. Goals and targets agreed by the international community in relation to sustainable development, such as the adoption of national sustainable development strategies and increased support to developing countries, must be implemented in a timely fashion. The mobilization of domestic and international resources, including development assistance, far beyond current levels is vital to the success of this endeavour.

3. The evolving framework of international environmental law and the development of national law provide a sound basis for addressing the major environmental threats of the day. It must be underpinned by a more coherent and coordinated approach among international environmental instruments. We must also recognize the central importance of environmental compliance,

enforcement and liability, and promote the observation of the precautionary approach as contained in the Rio Principles, and other important policy tools, as well as capacity-building.

4. The Global Environment Outlook 2000 of the United Nations Environment Programme provides a compelling assessment of the serious nature of the environmental threats faced by the international community. Special attention should be paid to unsustainable consumption patterns among the richer segments in all countries, particularly developed countries. Environmental stewardship is lagging behind economic and social development, and a rapidly growing population is placing increased pressures on the environment.

5. Environmental threats resulting from the accelerating trends of urbanization and the development of megacities, the tremendous risk of climate change, the freshwater crisis and its consequences for food security and the environment, the unsustainable exploitation and depletion of biological resources, drought and desertification, and uncontrolled deforestation, increasing environmental emergencies, the risk to human health and the environment from hazardous chemicals, and land-based sources of pollution, are all issues that need to be addressed.

6. Opportunities however exist that can redress this situation. Technological innovation and the emergence of new resource-efficient technologies, in which the private sector plays a major role, provide a source of great hope and increased opportunities to avoid the environmentally destructive practices of the past, including through clean technologies.

7. To confront the underlying causes of environmental degradation and poverty, we must integrate environmental considerations in the mainstream of decision-making. We must also intensify our efforts in developing preventive action and a concerted response, including national environmental governance and the international rule of law, awareness-raising and education, and harness the power of information technology to this end. All actors involved must work together in the interest of a sustainable future.

8. It is necessary that the environmental perspective is taken into account in both the design and the assessment of macro-economic policy-making, as well as practices of government and multilateral lending and credit institutions such as export credit agencies.

9. The trends of globalization in the world economy, with the attendant environmental risks and opportunities, require international institutions to adopt new approaches and to engage the major actors involved in globalization in new ways. We should encourage a balanced and integrated approach to trade and environment policies in pursuit of sustainable development, in accordance with the decision of the Commission on Sustainable Development at its eighth session.

10. The role and responsibility of nations based on the Rio Principles, as well as the role and responsibility of the main actors including Governments, the private sector and civil society, must be emphasized in addressing the environmental challenges of the twenty-first century. Governments are the primary agents in this process, whose actions are vital in implementing United Nations environment-related instruments since Stockholm, institutional capacity-building and strengthened international cooperation.

The private sector and the environment

11. The private sector has emerged as a global actor that has a significant impact on environmental trends through its investment and technology decisions. In this regard, Governments have a crucial role in creating an enabling environment. The institutional and regulatory capacities of Governments to interact with the private sector should be enhanced. A greater commitment by the private sector should be pursued to engender a new culture of environmental accountability through the application of the polluter-pays principle, environmental performance indicators and reporting, and the establishment of a precautionary approach in investment and technology decisions. This approach must be linked to the development of cleaner and more resource-efficient technologies for a life cycle economy and efforts to facilitate the transfer of environmentally sound technologies.

12. The potential of the new economy to contribute to sustainable development should be further pursued, particularly in the areas of information technology, biology and biotechnology. The ethical and social implications must be carefully considered. There must be recognition of the public interest in knowledge related to biodiversity, including the interest of indigenous and local communities. A corporate ethic guided by public interest should be promoted.

13. The Global Compact established by the Secretary-General of the United Nations with the private sector provides an excellent vehicle for the development of a constructive engagement with the private sector. UNEP should continue to enhance its engagement and collaboration with the private sector and consider the relation between foreign direct investment and the environment, with a view to minimizing negative environmental implications.

Civil society and the environment

14. Civil society plays a critically important role in addressing environmental issues. The role, capabilities and involvement of civil society organizations has seen a substantial increase over recent years, which highlights the need for national Governments and for

UNEP and international organizations to enhance the engagement of these organizations in their work on environmental matters.

15. Civil society has found new and effective modes of expression of popular sentiments and concerns. It provides a powerful agent for promoting shared environmental purpose and values. Civil society plays an important role in bringing emerging environmental issues to the attention of policy makers, raising public awareness, promoting innovative ideas and approaches, and promoting transparency as well as non-corrupt activities in environmental decision-making.

16. The role of civil society at all levels should be strengthened through freedom of access to environmental information to all, broad participation in environmental decision-making, as well as access to justice on environmental issues. Governments should promote conditions to facilitate the ability of all parts of society to have a voice and to play an active role in creating a sustainable future.

17. Science provides the basis for environmental decision-making. There is a need for intensified research, fuller engagement of the scientific community and increased scientific cooperation on emerging environmental issues, as well as improved avenues for communication between the scientific community, decision makers and other stakeholders.

18. We must pay special attention to threats to cultural diversity and traditional knowledge, in particular of indigenous and local communities, which may be posed by globalization. In this context we welcome the proclamation by the United Nations General Assembly of the year 2001 as the International Year of Dialogue among Civilizations.

19. Greater emphasis must be given to the gender perspective in decision-making concerning the management of the environment and natural resources.

20. There is a need for independent and objective media at all levels in enhancing awareness and developing shared environmental values in global society. The media can serve the cause of sustainable development by identifying emerging issues, awareness-raising and promoting appropriate action.

The 2002 review of UNCED

21. The 2002 review of the implementation of the outcome of the United Nations Conference on Environment and Development (UNCED) should be undertaken by an international conference at the summit level. The objective should not be to renegotiate Agenda 21, which remains valid, but to inject a new spirit of cooperation and urgency based on agreed actions in the common quest for sustainable development. In this regard, the ratification of all environmental conventions and protocols, in particular those related to climate, desertification, biosafety and chemicals, should be urgently pursued by Governments.

22. Governments and UNEP have to play a major role in the preparation for the 2002 review of UNCED at the regional and global levels and ensure that the environmental dimension of sustainable development is fully considered on the basis of a broad assessment of the state of the global environment. The preparations for the conference should be accelerated.

23. The 2002 conference should aim at addressing the major challenges to sustainable development, and in particular the pervasive effects of the burden of poverty on a large proportion of the Earth's inhabitants, counterposed against excessive and wasteful consumption and inefficient resource use that perpetuate the vicious circle of environmental degradation and increasing poverty.

24. The 2002 conference should review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalizing world. UNEP's role in this regard should be strengthened and its financial base broadened and made more predictable.

Conclusion

25. At the dawn of this new century, we have at our disposal the human and material resources to achieve sustainable development, not as an abstract concept but as a concrete reality. The unprecedented developments in production and information technologies, the emergence of a younger generation with a clear sense of optimism, solidarity and values, women increasingly aware and with an enhanced and active role in society – all point to the emergence of a new consciousness. We can decrease poverty by half by 2015 without degrading the environment, we can ensure environmental security through early warning, we can better integrate environmental considerations in economic policy, we can better coordinate legal instruments and we can realize a vision of a world without slums. We commit ourselves to realizing this common vision.

Adopted by the Global Ministerial Environment Forum
Sixth Special Session of the Governing Council of the United Nations Environment Programme
Fifth plenary meeting
31 May 2000

7. REPORT OF THE MEETING OF SENIOR GOVERNMENT OFFICIALS EXPERT IN ENVIRONMENTAL LAW TO PREPARE A PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

INTRODUCTION

1. The Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-First Century was held at the United Nations Office at Nairobi from 23 to 27 October 2000.

I. OPENING OF THE MEETING

2. The Meeting was convened by the Executive Director of the United Nations Environment Programme (UNEP) to address the tasks envisaged in Governing Council decision 20/3 of 3 February 1999, which requested the Executive Director to undertake a process for the preparation of a new strategic environmental law programme of UNEP. In response to that decision, the secretariat had, with the assistance of a geographically balanced group of experts, prepared a draft programme of environmental law for the first decade of the twenty-first century (Montevideo Programme III), which was before the Meeting (document UNEP/Env.Law/4/2). The purpose of the Meeting was to finalize the draft programme for submission to and possible adoption by the Governing Council of UNEP at its 21st session.

3. The Meeting was opened on behalf of the Executive Director by Mr. Donald Kaniaru, Director, Division of Environmental Policy Implementation, at 10:20 a.m. on Monday, 23 October 2000.

4. Speaking on behalf of the Executive Director, Mr. Kaniaru welcomed the participants to the UNEP headquarters in Nairobi and said that their presence was part of the process leading up to the observance in two years time of the 30th anniversary of the Stockholm Conference on the Human Environment and the tenth anniversary of the 1992 Earth Summit.

5. Noting that despite the successful and continuing efforts of the international community during the past three decades, the environment and the natural resource base that supported life on Earth had continued to deteriorate at an alarming rate, he said that the new millennium was marked by persistent environmental problems as well as new and emerging ones, and observed that there had been increasing advocacy for a thorough assessment of the adequacy of existing instruments underpinning global environmental governance. Through the implementation of its long-term programme on environmental law, widely known as the Montevideo Programme I and II, UNEP had accomplished significant achievements, such as the many global conventions and protocols, as well as other regional agreements and a large number of capacity building activities. The UNEP environmental law programme for the following decade, which the present Meeting had been convened to develop, would be characterized by expressly formulated objectives reflecting the overarching goals of sustainable development and environmental security at the global, regional and country levels.

6. In conclusion, he said that the present Meeting had before it the outcome of a lengthy preparatory process, i.e., the proposed components of a programme for the development and periodic review of environmental law for the first decade of the twenty-first century. He felt sure that with their expertise in environmental law, the participants would further develop and refine the draft programme and agree upon a final draft UNEP environmental law programme for adoption by the UNEP Governing Council at its forthcoming session in February 2001. He wished the participants every success in their deliberations.

II. ELECTION OF OFFICERS

7. At its opening session, the meeting elected the following officers by acclamation:
Chair: Mr. Patrick Széll (United Kingdom)
Vice-Chair: Mr. Bie Tao (China)
Rapporteur: Mr. Paul K. Ndungu (Kenya)

III. ORGANIZATIONAL MATTERS

A. Attendance

8. The Meeting was attended by representatives from the following countries: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Bolivia, Brazil, Burundi, Canada, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Guatemala, Haiti, Honduras, Indonesia, Iran (Islamic Republic of), Italy, Jamaica, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya,

Madagascar, Malawi, Mauritius, Mongolia, Morocco, Nepal, Norway, Pakistan, Peru, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Sudan, Suriname, Sweden, Switzerland, Togo, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Zambia.

9. Representatives of the following United Nations bodies and convention secretariats also attended theMeeting: United Nations Educational, Scientific and Cultural Organization, United Nations High Commissioner for Refugees, Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Secretariat of the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocal on Substances that Deplete the Ozone Layer.

10. Representatives of the following intergovernmental organizations also attended the Meeting: Economic Cooperation Organization, International Criminal Police Organization (INTERPOL).

11. The Meeting was also attended by representatives of the following non-governmental organizations: Environmental Liaison Centre International, International Council of Environmental Law, International Committee of the Red Cross.

B. Adoption of the Agenda

12. The Meeting adopted the following agenda on the basis of the provisional agenda set out in document UNEP/Env.Law/4/1:
    1. Opening of the Meeting.
    2. Election of officers.
    3. Organizational matters:
        (a) Adoption of the agenda;
        (b) Organization of work.
    4. Preparation of the draft programme for the development and periodic review of environmental law for the first decade of the twenty-first century.
    5. Consideration of recommendations.
    6. Other matters.
    7. Adoption of the draft programme, recommendations and the report.
    8. Closure of the Meeting.

C. Organization of Work

13. The Meeting decided to undertake its work primarily in plenary.

IV. PREPARATION OF THE DRAFT PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

14. In considering agenda item 4, the meeting had before it a note by the secretariat presenting two documents, the first entitled "Possible components of a programme for the development and periodic review of environmental law for the first decade of the twenty-first century" (UNEP/Env.Law/4/2), and the second entitled "Implementation of the Programme for the Development and Periodic Review of Environmental Law for the 1990's" (UNEP/Env.Law/4/3). The secretariat briefly outlined the contents of these documents for the representatives before they began their deliberations.

15. Before turning to a detailed examination and debate of the possible environmental law programme components set out in document UNEP/Env.Law/4/2, the representatives expressed their general observations regarding the document. Many representatives expressed appreciation for the efforts made by UNEP and the international group of experts in preparing the document. Several representatives stated that a number of issues should be added. Those included urban environmental issues, environmental problems arising from the presence of refugees, certain aspects of marine pollution and the need to take traditional knowledge into account. Mountain ecosystems should also be given the importance they deserved, since many people depended on them for their survival. As regards the term "environmental law," there was a need to define it clearly to distinguish it from other types of law and to clarify in each case where it appeared whether it referred to domestic law, international law or both. Prioritization of actions was also discussed, and the Meeting felt that it was the prerogative of the Governing Council and the implementing agencies. It was generally felt that emphasis should be laid more on implementing existing laws rather than creating new ones, and it was noted that public participation could play a key role in ensuring that laws were enforced.

16. Following the general remarks, the participants discussed in detail and extensively debated each of the proposed programme elements for the Montevideo Programme III for submission to the Governing Council.

V. CONSIDERATION OF RECOMMENDATIONS

17. In addition, the Meeting debated and produced a draft decision approving the proposed Montevideo

Programme III for submission to the Governing Council, along with a recommendation that the Executive Director of UNEP transmit the draft decision to the Governing Council.

VI. OTHER MATTERS

18. The Meeting considered no other matters.

VII. ADOPTION OF THE DRAFT PROGRAMME, RECOMMENDATIONS AND THE REPORT

19. Following the discussion and debate, the Meeting unanimously adopted a proposed Montevideo Programme III for submission to the Governing Council on the basis of the draft contained in documents UNEP/Env.Law/4/CRP.1/Rev.1, UNEP/Env.Law/4/CRP.2, UNEP/Env.Law/4/CRP.4, UNEP/Env.Law/4/CRP.5 and UNEP/Env.Law/4/CRP.6. (***The Montevideo Programme III is not annexed to the present report. For the Montevideo Programme, see next document)***

20. The Meeting also unanimously adopted the recommendation containing the draft Governing Council decision regarding the proposed Montevideo Programme III on the basis of the draft contained in document UNEP/Env.Law/CRP/3. The recommendation and draft decision are set out in annex II to the present report.

21. The Meeting adopted the present report on 27 October 2000 on the basis of the draft contained in document UNEP/Env.Law/4/L.1.

VIII. CLOSURE OF THE MEETING

22. After the customary exchange of courtesies, the Chair declared the Meeting closed at 1:00 p.m. on Friday, 27 October 2000.

Annex II

DRAFT RECOMMENDATION

The Meeting recommends to the Governing Council that at its twenty-first session it considers adoption of a decision along the following lines:

"The Governing Council,

Recalling its decision 20/3 of 3 February 1999,

Recalling the mandate of the United Nations Environment Programme in the field of the environment as reflected in the Nairobi Declaration, the Malmö Ministerial Declaration, and the Programme for the Further Implementation of Agenda 21 adopted by the General Assembly at its nineteenth special session in resolution S-19/2;

Having considered the outcome of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, held in Nairobi from 23 to 27 October 2000;

Takes note with appreciation of the work of the United Nations Environment Programme, as described in document UNEP/Env.Law/4/3, in implementing the Programme for the Development and Periodic Review of Environmental Law for the 1990s;

Adopts the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, as set out in annex I to the report of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme of Work for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (UNEP/Env.Law/4/4), as the broad strategy for the activities of the United Nations Environment Programme in the field of environmental law for the first decade of the twenty-first century;

Requests the Executive Director to implement the Programme, within available resources, through the programmes of work of the United Nations Environment Programme and in close collaboration with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons;

Decides to review the implementation of the Programme not later than at its regular session in 2005."

8. THE PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY (MONTEVIDEO PROGRAMME III)

THE PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

INTRODUCTION

Since the establishment of the United Nations Environment Programme (UNEP), environmental law has been one of its priority areas and is recognized as an effective tool for catalyzing national and international action in the field of the environment. The role and competence of UNEP in the progressive development and promotion of environmental law has been repeatedly emphasized at various international forums, including the General Assembly, the UNEP Governing Council and the Commission on Sustainable Development. Agenda 21, in its chapter 38, identifies environmental law as one of the priority areas on which UNEP should concentrate. In particular, it underscores the role of UNEP in the further development and implementation of international environmental law, as well as provision of technical, legal and institutional advice to Governments in establishing and enhancing their national legal and institutional frameworks. This role is emphasized in the Nairobi Declaration on the Role and Mandate of UNEP as well as in the Programme for the Further Implementation of Agenda 21 adopted by the General Assembly at its nineteenth special session. The Malmö Ministerial Declaration underscores the importance of this area in the work of UNEP.

Beginning in 1982, UNEP's environmental law activities were organized and coordinated through a series of 10-year programmes for the development and periodic review of environmental law. The first programme (Montevideo Programme I) and the programme for the 1990s (Montevideo Programme II), adopted in 1982 by the tenth session of the Governing Council and in 1993 by the seventeenth session of the Governing Council respectively, were instrumental in providing UNEP with strategic guidance in this field.

In its decision 20/3 of 3 February 1999, the Governing Council, at its twentieth session, requested the Executive Director to undertake a process for the preparation of a new programme for the development and periodic review of environmental law. In pursuance of the decision, the Executive Director undertook the process in consultation with Governments and relevant organizations. As part of this process, in 2000, UNEP convened two meetings of an international group of experts to develop possible components of the new programme. On the basis of that preparatory work, the Executive Director convened a meeting in Nairobi in October 2000 of senior government officials expert in environmental law to prepare a programme for the development and periodic review of environmental law for the first decade of the twenty-first century. The meeting thoroughly examined the possible components

prepared by the international group of experts and developed a draft programme that was submitted to the Governing Council.

The twenty-first session of the Governing Council/ Global Ministerial Environment Forum, in its decision 21/23 of 9 February 2001, unanimously adopted the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (Montevideo Programme III), as the broad strategy for the activities of UNEP in the field of environmental law for the first decade of the twenty-first century. The Governing Council requested the Executive Director to implement the Programme, within available resources, through the programmes of work of UNEP and in close cooperation with international organizations, non-State actors and persons. The Governing Council, in the same decision, decided to review the implementation of the Programme not later than at its regular session in 2005.

Full implementation of the Montevideo Programme III, supported by political will and adequate resources, will help increase the coherence and effectiveness of environmental law in addressing global environmental challenges of the contemporary world in the context of sustainable development.

The following programme areas, together with the respective objectives, strategies and actions, are proposed as a non-exhaustive list of elements for the Programme. UNEP, in accordance with its catalytic role, will take action in these areas in coordination with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons. For UNEP, the implementation of these activities should be consistent with UNEP's biennial programmes of work.

I. EFFECTIVENESS OF ENVIRONMENTAL LAW

1. Implementation, compliance and enforcement

Objective: To achieve effective implementation of, compliance with, and enforcement of environmental law.

Strategy: Promote the effective implementation of environmental law through, inter alia, the widest possible participation in multilateral environmental agreements and the development of relevant strategies, mechanisms and national laws.

Action:

(a) Conduct studies on:
  (i) The effectiveness of, and compliance with, international environmental law, identifying the underlying causes of non-compliance; and
  (ii) The environmental effectiveness of domestic environmental law, with the consent and cooperation of the relevant State or States;

(b) Identify effective means to address major constraints faced especially by developing countries, and, in particular, the least developed among them, and countries with economies in transition in implementing environmental law;

(c) Cooperate with States, particularly by providing assistance to developing countries, and, in particular, the least developed among them, and countries with economies in transition, in:
  (i) Establishing and strengthening domestic law to improve compliance with international environmental obligations and enforcement of such obligations through domestic law;
  (ii) Developing national environmental action plans or strategies and, where appropriate, regional action plans or strategies, to assist in the implementation of international environmental obligations;

(d) Develop, where appropriate, as advice to competent national authorities, model laws or equivalent guidance materials for the implementation of international environmental instruments;

(e) Prepare comparative analyses of compliance mechanisms, including reporting and verification mechanisms, under different multilateral environmental agreements and, where appropriate, under agreements in other fields of international law;

(f) Promote facilitative means of implementation of, and compliance with, international environmental law and, in this regard, study the efficacy of financial mechanisms, technology transfer and economic incentives under existing international environmental law instruments;

(g) Promote the use, where appropriate, of disincentives, including effective civil liability mechanisms, to encourage compliance with environmental law;

(h) Evaluate and, as appropriate, promote the wider use of criminal and administrative law in the enforcement of domestic environmental laws and standards;

(i) Explore options for advancing the effective involvement of non-State actors in promoting implementation of, and compliance with, international environmental law and its enforcement at the domestic level;

(j) Promote further regional cooperation for enhancing implementation of, and compliance with, international environmental law;

(k) Encourage, during the development of new international environmental legal instruments, consideration of the implementation and enforcement aspects of those instruments.

2. Capacity-building

Objective: To strengthen the regulatory and institutional capacity of developing countries, in particular the least developed and small island developing States, and countries with economies in transition, to develop and implement environmental law.

Strategy: Provide appropriate technical assistance, education and training to those concerned, based on assessment of needs.

Action:

(a) Assist the development and strengthening of domestic environmental legislation, regulations, procedures and institutions;

(b) Arrange seminars, workshops and exchange programmes for government officials, the judiciary, the legal profession and others concerned, on environmental law and policy, including on the implementation of international environmental instruments;

(c) Provide appropriate training and support to enhance the participation of representatives from developing countries, particularly the least developed among them and small island developing States, and countries with economies in transition, in international meetings and negotiations related to environmental law;

(d) Produce and disseminate environmental law publications to serve as tools of capacity-building;

(e) Promote the teaching of domestic, international and comparative environmental law in universities and law schools, and to this end, develop teaching materials, including video and other electronic media;

(f) Collaborate with governments and relevant international bodies in facilitating educational programmes in environmental law at the national and regional levels;

(g) Strengthen coordination among relevant international organizations and institutions, including those that provide financing, on educational projects and programmes related to environmental law, its implementation and enforcement and the underlying causes of environmental damage.

3. Prevention and mitigation of environmental damage

Objective: To strengthen measures to prevent environmental damage, and to mitigate such damage when it occurs.

Strategy: Promote the development and application of policies and measures to prevent environmental damage and mitigate such damage by means, inter alia, of restoration or redress, including compensation, where appropriate.

Action:

(a) Promote, where appropriate, efforts by States to develop and adopt minimum international standards at high levels of protection and best practice standards for the prevention and mitigation of environmental damage;

(b) Conduct studies, with the consent and cooperation of the States concerned, on the effectiveness of existing regimes of civil liability as a means of preventing environmentally harmful activities and mitigating environmental damage, and provide expertise to States to enhance the effectiveness of such regimes;

(c) Conduct studies, with the consent and cooperation of the States concerned, on the adequacy and effectiveness of ways and means of providing compensation, remediation, replacement and restoration for environmental damage, including methods of valuation, and encourage efforts by States to develop and adopt standard environmental economic valuation tools and techniques for such valuation;

(d) Support the development by States of processes and procedures for victims and potential victims of environmentally harmful activities, regardless of their nationality, to:
   (i) Ensure appropriate access to justice; and
   (ii) Provide appropriate redress, including the possibility of compensation, inter alia, through insurance and compensation funds;

(e) Promote collaboration among governments, international organizations and civil society in strengthening regimes for prevention and mitigation of environmental damage;

(f) Assist developing countries, in particular the least developed among them, and countries with economies in transition in the development and application of legislative, administrative and institutional mechanisms for implementing international instruments and domestic policies relating to prevention and mitigation of environmental damage.

4. Avoidance and settlement of international environmental disputes

Objective: To improve the effectiveness of measures and methods for avoiding and settling international environmental disputes.

Strategy: Develop and promote new and existing means for avoiding environmental disputes and, where such avoidance is not possible, for their peaceful settlement.

Action:

(a) With respect to the avoidance of environmental disputes, encourage States to:
  (i) Regularly exchange environmental data and information;
  (ii) Assess transboundary environmental impacts of planned activities;
  (iii) Undertake early notification and consultation concerning planned activities that may have significant adverse impacts in other States or in areas beyond the limits of national jurisdiction;
  (iv) Undertake monitoring, fact-finding, reporting and other means and procedures for verifying compliance and addressing non-compliance;
  (v) Consider, as appropriate, innovative approaches to dispute avoidance, such as the use of third-party neutrals to facilitate open and complete information exchange, particularly among parties with differing levels of technical expertise.

(b) With respect to the settlement of environmental disputes:
  (i) Study the actual and potential facilitative role of international bodies and agencies in the settlement of environmental disputes, including, where appropriate, through environmental ombudsmen;
  (ii) Study experience regarding dispute settlement provisions of international environmental agreements in order to assess the effectiveness of those provisions;
  (iii) Identify the most effective mechanisms for settling environmental disputes;
  (iv) Facilitate the use of expert opinions, as appropriate, for settling environmental disputes;
  (v) Promote innovative approaches and mechanisms for settling environmental disputes;

(c) Study the experience gained in the operation of dispute settlement mechanisms in other fields of international law;

(d) Examine the relationship between dispute settlement systems in international environmental agreements and those in other international regimes, including regimes relating to trade and investment;

(e) Provide training in rules and procedures concerning environmental dispute avoidance and settlement for government officials and the legal profession, including the judiciary.

5. Strengthening and development of international environmental law

Objective: To strengthen and further develop international environmental law, building on the existing foundations.

Strategy: Encourage international action to address gaps and weaknesses in existing international environmental law and to respond to new environmental challenges.

Action:

(a) Undertake assessments of existing and emerging challenges to the environment in order to identify gaps and weaknesses, including inter-linkages and cross-cutting issues, in international environmental law and specify the role it should play in responding to those challenges;

(b) Develop criteria for determining the need for and feasibility of new international environmental instruments, taking into account existing instruments and practice;

(c) Review the application of the principles contained in the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment and the 1992 Rio Declaration on Environment and Development, identify the extent to which they are applied internationally and disseminate the resulting information to States;

(d) Examine other fields of international law for the purpose of identifying emerging concepts, principles and practices relevant to the development and implementation of environmental law;

(e) Assist governments, particularly those of developing countries, and in particular the least developed among them, and countries with economies in transition, in the development of bilateral, regional and global legal instruments in the field of the environment, involving for this purpose the expertise and experience of all concerned;

(f) Strengthen collaboration within the United Nations system as well as with other intergovernmental bodies in their work on the development of instruments relevant to the environment and, in particular, encourage, where appropriate, the integration of sustainable development in those instruments;

(g) Encourage efforts by academics and researchers towards better organization of international environmental law, starting with its compilation as a possible step towards codification.

6. Harmonization and coordination

Objective: To promote, where appropriate, harmonized approaches to the development and implementation of environmental law and encourage coordination of relevant institutions.

Strategy: Promote domestic, regional and global actions towards the development and application of appropriate harmonized approaches to environmental law and encourage coherence and coordination of international environmental law and institutions.

Action:

(a) Assist States to:
  (i) Improve progressively their environmental standards on a global or regional level;
  (ii) Promote coherence between environmental law and other laws, both at domestic and international levels, to ensure that they are mutually supportive and complementary;
  (iii) Study the ways in which developing countries have integrated environmental policy into their governmental processes and advise governments on this subject;

(b) Conduct studies on the legal aspects of, obstacles to and opportunities for consolidating and rationalizing the implementation of multilateral environmental agreements, so as to avoid duplication of their work and functions;

(c) Improve ways of harmonizing and otherwise rationalizing the reporting obligations in multilateral environmental agreements.

7. Public participation and access to information

Objective: To improve the quality of decision-making in environmental matters through increased transparency, access to information and public participation.

Strategy: Promote and further develop means in law and practice to increase transparency, strengthen access to information and improve public participation in processes leading to decision-making relating to the environment.

Action:

(a) Collect, study and disseminate information on the law and practice relating to access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters;

(b) Assist developing countries, and in particular the least developed among them, and countries with economies in transition, in developing means in law and practice to collect and disseminate information concerning the environment;

(c) Explore means in law and practice for promoting appropriate public participation in the implementation of, compliance with and enforcement of environmental law;

(d) Review procedures and practices with regard to public participation and access to information at international institutions and in negotiations and other activities related to sustainable development;

(e) Organize training on laws and procedures relating to access to environmental information and public participation in processes leading to environmental decision-making;

(f) Investigate the need for and feasibility of new international instruments on access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters.

8. Information technology

Objective: To improve the development, content, effectiveness and awareness of environmental law through the use of new and existing information technology.

Strategy: Promote the appropriate use of new and existing information technology in the development, implementation and enforcement of environmental law, as well as the dissemination of information relating to environmental law, taking into account the special needs and circumstances of countries that may lack access to some or all aspects of information technology.

Action:

(a) Study and promote ways in which new and existing information technologies can be used to:
  (i) Assist in the development of environmental laws;
  (ii) Promote dialogue and public participation on environmental matters with respect to, inter alia, environmental impact assessment;
  (iii) Avoid or settle environmental disputes;
  (iv) Strengthen enforcement and compliance;
  (v) Increase efficiency in the cooperative activities of multilateral environmental agreements;
  (vi) Improve education in environmental law;

(b) Explore the tools to improve existing international arrangements and build new ones for access to, processing of and dissemination of information on environmental legislation from national and international sources;

(c) Promote methods for using the Internet and information technology to enhance public awareness of environmental law and to make international instruments and other documents available, including in all United Nations languages;

(d) Support efforts to ensure that environmental agencies, institutions and organizations, particularly in developing countries, have access to World Wide Web legal databases;

(e) Further develop the United Nations Environment Programme (UNEP) Web page and promote further development of the Web pages of multilateral environmental agreements;

(f) Promote the use and further development of the joint UNEP/World Conservation Union (IUCN) environmental law database (ECOLEX).

9. Innovative approaches to environmental law

Objective: To improve the effectiveness of environmental law through the application of innovative approaches.

Strategy: Identify and promote innovative approaches, tools and mechanisms that will improve the effectiveness of environmental law.

Action:

(a) Assess State practice in utilizing tools such as eco-labelling, certification, pollution fees, natural resource taxes and emissions trading and assist, as appropriate, in the use of such tools;

(b) Promote the development and assess the effectiveness of voluntary codes of conduct and comparable initiatives that promote environmentally and socially responsible corporate and institutional behaviour, to complement domestic law and international agreements;

(c) Encourage consideration of the use of spokesmen for environmental values and concerns, including for the interests of future generations;

(d) Study the contribution that other fields of law can make to environmental protection and sustainable development;

(e) Enhance, through studies, the relationship of indigenous and local communities embodying traditional lifestyles to the management and protection of the environment;

(f) Promote ecosystem management in law and practice, including the valuation of services provided by ecosystems, such as environmental benefits;

(g) Encourage the development of legal and policy frameworks for reducing the debt burdens of developing countries in ways that benefit the environment.

II. CONSERVATION AND MANAGEMENT

10. Freshwater resources

Objective: To enhance the conservation, protection, integrated management and sustainable use of freshwater resources, both ground and surface water.

Strategy: Encourage the development of national and regional policies, action plans and, where appropriate, legal instruments for the conservation, protection, regeneration, integrated management and maintenance of the quality and sustainable use of freshwater resources.

Action:

(a) Encourage international cooperation to the end of ensuring access to clean drinking water, particularly in countries affected by the problem of drought or lack of water;

(b) Encourage States to develop and apply law and policies for the purposes of the sustainable use of freshwater resources and their protection from contamination and other threats;

(c) Encourage actions by States, individually and collectively, to improve conservation, protection, integrated management and maintenance of the quality and sustainable use of freshwater resources;

(d) Assess experiences of States with regard to water supply, waste water treatment and sanitation;

(e) Continue its work on reviewing the environmental aspects of transboundary watercourses.

11. Coastal and marine ecosystems

Objective: To promote and improve the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.

Strategy: Promote the effective implementation of international instruments and domestic laws and policies for the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.

Action:

(a) Promote respect for and effective implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and other international instruments relating to protection and sustainable use of coastal and marine resources and ecosystems;

(b) Assist governments and relevant international bodies in the implementation and further development of regional seas conventions, protocols and related action plans;

(c) Collaborate with relevant international bodies on legal issues relating to the enhancement of the conservation and sustainable management of marine resources, including fisheries;

(d) Study and, as appropriate, promote land use planning and the creation of marine protected areas for the integrated management, conservation and sustainable use of coastal ecosystems;

(e) Explore the means in law and practice, including through regional seas conventions, for improving the protection of coral reefs, wetlands, mangroves and other coastal and marine ecosystems;

(f) Collaborate with relevant international bodies in further integrating environmental considerations into rules relating to navigational safety.

12. Soils

Objective: To improve the conservation, rehabilitation and sustainable use of soils.

Strategy: Promote the development and implementation of laws and policies for enhancing the conservation, sustainable use and, where appropriate, rehabilitation of soils.

Action:

(a) Review domestic land use laws, change of land use laws and tenure systems with the aim of achieving soil conservation and reclamation goals;

(b) Promote the integration of soil conservation measures into relevant domestic laws, taking into account, where appropriate, relevant international instruments such as the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa.

13. Forests

Objective: To enhance the conservation and sustainable use of all types of forests.

Strategy: Promote the development and implementation of measures aimed at the protection, conservation and sustainable use of all types of forests.

Action:

(a) Promote the integration of environmental concerns into domestic forest policies and legislation and the integration of forest conservation goals into other laws related to the use of forests;

(b) Promote, where appropriate, means in domestic law and practice that provide incentives and remove disincentives for local people to conserve forests;

(c) Encourage the elaboration of domestic laws and enhanced international cooperation in the prevention, assessment, monitoring and mitigation of forest fires;

(d) Assist in coordination among international institutions in the development and implementation of internationally agreed actions on forests.

14. Biological diversity

Objective: To enhance the conservation of biological diversity, the sustainable use of its components, biosafety and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

Strategy: Promote, in consultation and cooperation with the Conference of the Parties and the secretariat of the Convention on Biological Diversity, the development and implementation of national, regional and global policies and legal instruments, as appropriate, for the conservation and sustainable use of biological diversity in all ecosystems, for the fair and equitable sharing of benefits arising out of such use and for biosafety.

Action:

(a) Promote the development and application of domestic laws for the conservation and sustainable use of biological diversity in situ and ex situ, including through ecosystem management and land use policies, as well as for the fair and equitable sharing of the benefits arising out of the utilization of genetic resources and for biosafety;

(b) Assist developing countries, in particular the least developed among them and the small island developing States, and countries with economies in transition, in the development and application of legislative, administrative and institutional measures for the implementation of international instruments concerning biological diversity;

(c) Contribute to the analysis of the relationship between intellectual property rights, the knowledge, innovations and practices of local and indigenous communities and the conservation and use of biological diversity in the context of studying ways and means to prevent and resolve conflict or incoherence between obligations under environmental and trade-related international agreements;

(d) Examine possible international responses to challenges posed by harmful invasive species, taking into account the cross-cutting nature of those problems and work under way in other international fora;

(e) Support the implementation of relevant multilateral environmental agreements, in particular the Convention on Biological Diversity and the Cartagena Protocol on Biosafety.

15. Pollution prevention and control

Objective: To prevent, reduce and control environmental pollution, and take into account the challenges presented by urban development.

Strategy: Strengthen and expand existing and develop new legal instruments and guidelines to prevent, reduce and control environmental pollution.

Action:

(a) Promote the further development of regional agreements to combat transboundary pollution, and in particular transboundary air pollution;

(b) Assist developing countries and countries with economies in transition in strengthening national legislation and institutions to prevent, reduce and control at source pollution, and in particular transboundary air pollution;

(c) Develop and promote means in law and practice for taking measures at the local level to address transboundary air pollution;

(d) Promote the effective implementation of international environmental regimes relating to climate change and ozone layer depletion;

(e) Promote the effective implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(f) Promote the effective implementation of multilateral environmental agreements in the field of chemicals, including adherence to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and to a global legally binding instrument on persistent organic pollutants;

(g) Elaborate a strategy to enhance the coherence between environmental and other conventions concerning chemicals;

(h) Promote the development of instruments and arrangements that discourage or prevent the environmentally unsound relocation and transfer to other States of any environmentally harmful activities and substances;

(i) Assist developing countries and countries with economies in transition to develop national pollutant release and transfer registries to promote, inter alia, contingency plans, public right-to-know programmes, and cleaner production process methods;

(j) Promote the development of domestic laws and policies that encourage integrated pollution control, pollution prevention, waste minimization and the environmentally sound and safe management of chemicals and assist developing countries, in particular the least developed among them, and countries with economies in transition, to achieve this objective;

(k) Promote laws and policies that support environmentally sound planning and environmental impact assessment at the national level;

(l) Develop guidelines and other instruments to improve the management of wastes in the context of urbanization and related challenges;

(m) Intensify its work, including undertaking appropriate legal studies, to more effectively address environmental problems of urban areas, coordinating closely with other relevant international organizations, including the United Nations Centre for Human Settlements (UNCHS) (Habitat);

(n) Conduct studies on particular issues and challenges associated with environmental impact assessments in urban areas.

16. Production and consumption patterns

Objective: To improve the sustainability of ecosystems through adequate patterns of production and consumption.

Strategy: Develop and apply means in law and practice to promote sustainable patterns of production and consumption.

Action:

(a) Identify and promote best practices and innovative laws and policies aimed at achieving sustainable production and consumption;

(b) Study best practices and innovative laws and policies that define the role and duties of the producer as well as the consumer in achieving sustainable production and consumption;

(c) Develop guidelines and promote the adoption of environmentally sound procurement policies by governments and international organizations.

17. Environmental emergencies and natural disasters

Objective: To improve the ability of the international community to prevent and respond to environmental emergencies arising from man-made and natural disasters.

Strategy: Develop further laws and policies aimed at preventing man-made disasters and responding to and mitigating man-made and natural disasters.

Action:

(a) In close cooperation with governments, public organizations and civil society, develop and promote policies, laws and institutions to

prevent man-made disasters, and respond to and mitigate man-made and natural disasters;

(b) Promote international cooperation in establishing mechanisms for disaster prevention and preparedness, including early warning systems for environmental emergencies;

(c) Study the need for and feasibility of the development of legal frameworks for international cooperation, in particular at the regional level, addressing man-made and natural disasters;

(d) Collaborate with relevant bodies to address legal issues relating to the phenomenon of environmentally disruptive ocean currents, in particular the "El Niño" phenomenon.

III. RELATIONSHIP WITH OTHER FIELDS

18. Trade

Objective: To secure environmental protection objectives in international trade, investment and financial laws and policies in order to achieve sustainable development and the appropriate balance between trade and environmental objectives.

Strategy: Encourage further the complementarity and mutual supportiveness of measures relating to environmental protection and international trade, investment and finance.

Action:

(a) Identify and promote, through collaboration among governments, relevant organizations and civil society, legal instruments that integrate in a complementary and mutually supportive manner:
  (i) Environmental and trade laws and policies;
  (ii) Environmental and investment laws and policies;

(b) Identify and promote, through collaboration among governments, relevant organizations and civil society:
  (i) Modalities for financing measures designed to resolve environmental problems, taking into account the linkage between environmental degradation and poverty;
  (ii) Economic and fiscal instruments for environmental protection and resource management;

(c) Conduct studies to identify means of promoting optimal coherence between obligations under environmental and trade-related international agreements;

(d) Promote and facilitate common international approaches to environmental problems as a means of anticipating and avoiding potential unilateral actions that could lead to environment and trade disputes;

(e) Encourage the resolution of trade disputes within the appropriate fora in ways that ensure the full and effective consideration of relevant environmental concerns and information, as well as transparency and public participation;

(f) Assist in developing the methodology for, and promote the implementation of, environmental impact assessments of investment and trade liberalization policies, particularly through capacity-building in developing countries and countries with economies in transition;

(g) Collaborate with private and public financial institutions, including export credit agencies, in the further development of guidelines and standards with respect to environmental impact assessment, public participation and environmental protection, for investments in developing countries.

19. Security and the environment

Objective: To encourage integration of the environmental dimension into traditional concepts of security.

Strategy: Encourage the consideration of environmental issues in policies, law and institutions related to national, regional and global security.

Action:

(a) Study further the subject of the relationship between environmental protection and security issues;

(b) Encourage studies on the concept of security and the environment.

20. Military activities and the environment

Objective: To reduce or mitigate the harmful effects of military activities on the environment and to encourage a positive role for the military sector in environmental protection.

Strategy: Collaborate with governments and international organizations concerned in developing and promoting compliance with environmental protection norms relating to military activities so as to avoid and mitigate environmental damage.

Action:

(a) Survey, with the cooperation of States, application of environmental norms, standards and procedures to military activities;

(b) Study the adequacy of, and identify any gaps in, existing legal regimes in protecting the environment from military activities, including to what extent the rules on warfare are protective of the environment, to what extent international

environmental obligations apply during times of armed conflict and to what extent the military sector complies with national and international environmental obligations during peacetime;

(c) Develop and clarify norms regarding the environmental impacts of military activities, in particular by:
   (i) Reviewing, with the cooperation of States, the effectiveness of existing regimes for environmental protection with respect to military activities;
   (ii) Reviewing, with the cooperation of States, existing codes of conduct, rules of engagement and manuals for armed forces to determine how they address environmental protection, and developing on that basis a model code of conduct or rules of engagement designed to reduce the likelihood of environmental damage through military activities;
   (iii) Exploring the feasibility of a general agreement for the protection of certain designated areas of natural and cultural heritage in times of armed conflict;

(d) Promote laws and policies that encourage consideration, in designing new weapons and military equipment, of their environmental effects throughout their life cycle, i.e., in their production, transport, use and disposal;

(e) Study the feasibility of developing legal mechanisms for mitigating damage caused by military activities, especially concerning:
   (i) The removal of military hardware that harms the environment;
   (ii) The restoration of the environment damaged by military activities;

(f) Undertake actions to enhance legal and institutional capacity to prevent and reduce environmental damage from military activities, by developing opportunities for training for civil and military staff in the military establishments in the application of legal norms of environmental protection.

9. UNEP GC DECISION 21/23: THE PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

The Governing Council,

Recalling its decision 20/3 of 3 February 1999,

Recalling the mandate of the United Nations Environment Programme in the field of the environment as reflected in the Nairobi Declaration, the Malmö Ministerial Declaration, and the Programme for the Further Implementation of Agenda 21 adopted by the General Assembly at its nineteenth special session in resolution S-19/2,

Having considered the outcome of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, held in Nairobi from 23 to 27 October 2000,

1. Takes note with appreciation of the work of the United Nations Environment Programme, as described in document UNEP/Env.Law/4/3, in implementing the Programme for the Development and Periodic Review of Environmental Law for the 1990s;

2. Adopts the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, as set out in annex I to the report of the Meeting of Senior Government Officials Expert in Environmental Law to Prepare a Programme of Work for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (UNEP/Env.Law/4/4), as the broad strategy for the activities of the United Nations Environment Programme in the field of environmental law for the first decade of the twenty-first century;

3. Requests the Executive Director to implement the Programme, within available resources, through the programmes of work of the United Nations Environment Programme and in close collaboration with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons;

4. Decides to review the implementation of the Programme not later than at its regular session in 2005.

10th meeting
9 February 2001

10. UNEP GC DECISION 22/17 PART II.A: FOLLOW-UP TO THE GLOBAL JUDGES SYMPOSIUM FOCUSING ON CAPACITY-BUILDING IN THE AREA OF ENVIRONMENTAL LAW

22/17
GOVERNANCE AND LAW

II
IMPLEMENTATION OF THE PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW BY THE FIRST DECADE OF THE TWENTY-FIRST CENTURY

A
FOLLOW-UP TO THE GLOBAL JUDGES SYMPOSIUM FOCUSING ON CAPACITY-BUILDING IN THE AREA OF ENVIRONMENTAL LAW

The Governing Council,

Recalling the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century and its decision 21/23 of 9 February 2001, which called on the Executive Director to promote the effective implementation of, compliance with and enforcement of environmental law, and towards this end to strengthen the capacity of various stakeholders, including members of the judiciary,

Recalling the six regional judges' symposiums on environmental law convened by the United Nations Environment Programme in collaboration with several partner agencies in Africa, South Asia, South-east Asia, Latin America and the Caribbean and the Pacific Island States during the period 1996-2001, which laid a strong foundation for judicial capacity-building in the regions and which called on the United Nations Environment Programme to convene a global judges' symposium on the role of law and sustainable development,

Taking note of regional experiences of the United Nations Environment Programme in the development of environmental laws,

Noting with appreciation the convening of the Global Judges' Symposium on the Role of Law and Sustainable Development in Johannesburg, from 18 to 20 August 2002, with the participation of over 122 high-ranking judges from more than 60 countries around the world, and noting the adoption by them by acclamation of the Johannesburg Principles on the Role of Law and Sustainable Development as a contribution from the Global Judges' Symposium to the World Summit on Sustainable Development, and the presentation of the Johannesburg Principles to the Secretary-General of the United Nations by the Chief Justice of South Africa,

Taking note of the report of the Executive Director on the Global Judges' Symposium on the Role of Law and Sustainable Development and its outcome (UNEP/GC.22/INF/24),

Recognizing the existing expertise of relevant organizations working at the international, regional, national and local levels in the field of environmental law,

1. Extends its deep appreciation to the Government of South Africa and the host of the Global Symposium, the Chief Justice of South Africa, for the excellent arrangements made for the successful conduct of the Symposium, and to the Executive Director for taking this important initiative;

2. Calls on the Executive Director to support, within the framework of the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century and within available resources, the improvement of the capacity of those involved in the process of promoting, implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors legislators and other relevant stakeholder, to carry out their functions on a well informed basis with the necessary skills, information and material with a view to mobilizing the full potential of the judiciaries around the world for the implementation and enforcement of environmental law, and promoting access to justice for the settlement of environmental disputes, public participation in environmental decision-making, the protection and advancement of environmental rights and public access to relevant information;

3. Encourages Governments and international financial institutions to assist developing countries and countries with economies in transition by providing funding for capacity-building as described in operative paragraph 2 above;

4. Encourages the Executive Director to work in partnership with relevant organizations in the design and implementation of these capacity-building activities;

5. Requests the Executive Director to report to the Governing Council, at its twenty-third session, on progress in the implementation of the present decision.

10th and 12th meetings
7 February 2003

PART II

BASIC REFERENCE TEXTS OF INTERNATIONAL ENVIRONMENTAL LAW

11. CHARTER OF THE UNITED NATIONS INCLUDING THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I
PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II
MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III
ORGANS

Article 7

1. There are established as the principle organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principle and subsidiary organs.

CHAPTER IV
THE GENERAL ASSEMBLY

COMPOSITION

Article 9

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

FUNCTIONS AND POWERS

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United

Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such questions on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.
4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, function, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

VOTING

Article 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the

determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V
THE SECURITY COUNCIL

COMPOSITION

Article 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

FUNCTIONS AND POWERS

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

VOTING

Article 27

1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter

VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

PROCEDURE

Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI
PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.
2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36

or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII
ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of

forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII
REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation

under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX
INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X
THE ECONOMIC AND SOCIAL COUNCIL

COMPOSITION

Article 61

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

FUNCTIONS AND POWERS

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports of the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations of these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connexion with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

VOTING

Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI
DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of

self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage respect, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII
INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the people concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

a. territories now held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreement and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII
THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV
THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV
THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1.In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from another authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI
MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII
TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to

the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII
AMENDMENTS

Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council

CHAPTER XIX
RATIFICATION AND SIGNATURE

Article 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 1

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I
ORGANIZATION OF THE COURT

Article 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfills the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Article 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as that laid down for the first election subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfill the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that

he will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfill the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II
COMPETENCE OF THE COURT

Article 34

1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III
PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.

2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favour of its claim.

2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

l. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2 It shall be for the Court to decide upon this request.

Article 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV
ADVISORY OPINIONS

Article 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by

the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V
AMENDMENT

Article 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

12. VIENNA CONVENTION ON THE LAW OF TREATIES

The States Parties to the present Convention

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the pacta sunt servanda rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I: INTRODUCTION

Article 1
Scope of the present Convention

The present Convention applies to treaties between States.

Article 2
Use of terms

1. For the purposes of the present Convention:

(a) 'treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

(b) 'ratification', 'acceptance', 'approval' and 'accession' mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;

(c) 'full powers' means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;

(d) 'reservation' means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

(e) 'negotiating State' means a State which took part in the drawing up and adoption of the text of the treaty;

(f) 'contracting State' means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;

(g) 'party' means a State which has consented to be bound by the treaty and for which the treaty is in force;

(h) 'third State' means a State not a party to the treaty;

(i) 'international organization' means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3
International agreements not within the scope of the present Convention

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

(a) the legal force of such agreements;

(b) the application to them of any of the rules set forth in the present Convention to which they would

be subject under international law independently of the Convention;

(c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4
Non-retroactivity of the present Convention

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5
Treaties constituting international organizations and treaties adopted within an international organization

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II:
CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1: CONCLUSION OF TREATIES

Article 6
Capacity of States to conclude treaties

Every State possesses capacity to conclude treaties.

Article 7
Full powers

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

(a) he produces appropriate full powers; or

(b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

(a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;

(b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;

(c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

Article 8
Subsequent confirmation of an act performed without authorization

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9
Adoption of the text

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10
Authentication of the text

The text of a treaty is established as authentic and definitive:

(a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or

(b) failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11
Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12
Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

(a) the treaty provides that signature shall have that effect;
(b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or
(c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1:
(a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
(b) the signature (ad referendum) of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13
Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:
(a) the instruments provide that their exchange shall have that effect; or
(b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

Article 14
Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when:
(a) the treaty provides for such consent to be expressed by means of ratification;
(b) it is otherwise established that the negotiating States were agreed that ratification should be required;
(c) the representative of the State has signed the treaty subject to ratification; or
(d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15
Consent to be bound by a treaty expressed by accession

The consent of a State to be bound by a treaty is expressed by accession when:
(a) the treaty provides that such consent may be expressed by that State by means of accession;
(b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
(c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16
Exchange or deposit of instruments of ratification, acceptance, approval or accession

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:
(a) their exchange between the contracting States;
(b) their deposit with the depositary; or
(c) their notification to the contracting States or to the depositary, if so agreed.

Article 17
Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

Article 18
Obligation not to defeat the object and purpose of a treaty prior to its entry into force

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:
(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
(b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2: RESERVATIONS

Article 19
Formulation of reservations

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

(a) the reservation is prohibited by the treaty;

(b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or

(c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20
Acceptance of and objection to reservations

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

(a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;

(b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;

(c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21
Legal effects of reservations and of objections to reservations

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:

(a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and

(b) modifies those provisions to the same extent for that other party in its relations with the reserving State.

2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.

3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article 22
Withdrawal of reservations and of objections to reservations

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.

2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.

3. Unless the treaty otherwise provides, or it is otherwise agreed:

(a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;

(b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23
Procedure regarding reservations

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.

2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.

4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3: ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24
Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25
Provisional application

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:

(a) the treaty itself so provides; or

(b) the negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III
OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1: OBSERVANCE OF TREATIES

Article 26
Pacta sunt servanda

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27
Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28
Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29
Territorial scope of treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30
Application of successive treaties relating to the same subject-matter

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one:

(a) as between States parties to both treaties the same rule applies as in paragraph 3;

(b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31
General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;

(b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

(c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32
Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(a) leaves the meaning ambiguous or obscure; or

(b) leads to a result which is manifestly absurd or unreasonable.

Article 33
Interpretation of treaties authenticated in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

SECTION 4. TREATIES AND THIRD STATES

Article 34
General rule regarding third States

A treaty does not create either obligations or rights for a third State without its consent.

Article 35
Treaties providing for obligations for third States

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 36
Treaties providing for rights for third States

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.

2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37
Revocation or modification of obligations or rights of third States

1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.

2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38
Rules in a treaty becoming binding on third States through international custom

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

PART IV: AMENDMENT AND MODIFICATION OF TREATIES

Article 39
General rule regarding the amendment of treaties

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

Article 40
Amendment of multilateral treaties

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.

2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:

(a) the decision as to the action to be taken in regard to such proposal;

(b) the negotiation and conclusion of any agreement for the amendment of the treaty.

3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.

4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4(b), applies in relation to such State.

5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:

(a) be considered as a party to the treaty as amended; and

(b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

Article 41
Agreements to modify multilateral treaties between certain of the parties only

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

(a) the possibility of such a modification is provided for by the treaty; or

(b) the modification in question is not prohibited by the treaty and:

(i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V: INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1. GENERAL PROVISIONS

Article 42
Validity and continuance in force of treaties

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.

2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43
Obligations imposed by international law independently of a treaty

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44
Separability of Treaty Provisions

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:

(a) the said clauses are separable from the remainder of the treaty with regard to their application;

(b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and

(c) continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45
Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

(a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

(b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2. INVALIDITY OF TREATIES

Article 46
Provisions of internal law regarding competence to conclude treaties

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47
Specific restrictions on authority to express the consent of a State

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48
Error

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

Article 49
Fraud

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50
Corruption of a representative of a State

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51
Coercion of a representative of a State

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Article 52
Coercion of a State by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53
Treaties conflicting with a peremptory norm of general international law (jus cogens)

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54
Termination of or withdrawal from a treaty under its provisions or by consent of the parties

The termination of a treaty or the withdrawal of a party may take place:

(a) in conformity with the provisions of the treaty; or

(b) at any time by consent of all the parties after consultation with the other contracting States.

Article 55
Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56
Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

(a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or

(b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57
Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

(a) in conformity with the provisions of the treaty; or

(b) at any time by consent of all the parties after consultation with the other contracting States.

Article 58
Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

(a) the possibility of such a suspension is provided for by the treaty; or

(b) the suspension in question is not prohibited by the treaty and:

(i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59
Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject- matter and:

(a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or

(b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60
Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:

(i) in the relations between themselves and the defaulting State,

(ii) as between all the parties;

(b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

(c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

(a) a repudiation of the treaty not sanctioned by the present Convention; or

(b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61
Supervening impossibility of performance

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62
Fundamental change of circumstances

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

(a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and

(b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:

(a) if the treaty establishes a boundary; or

(b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63
Severance of diplomatic or consular relations

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64
Emergence of a new peremptory norm of general international law (jus cogens)

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

SECTION 4. PROCEDURE

Article 65
Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty

1. A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.

2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.

3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in article 33 of the Charter of the United Nations.

4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.

5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66
Procedures for judicial settlement, arbitration and conciliation

If, under paragraph 3 of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:

(a) any one of the parties to a dispute concerning the application or the interpretation of articles 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;

(b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annexe to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67
Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

1. The notification provided for under article 65 paragraph 1 must be made in writing.

2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68
Revocation of notifications and instruments provided for in articles 65 and 67

A notification or instrument provided for in articles 65 or 67 may be revoked at any time before it takes effect.

SECTION 5. CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69
Consequences of the invalidity of a treaty

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.

2. If acts have nevertheless been performed in reliance on such a treaty:

(a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;

(b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.

3. In cases falling under articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.

4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70
Consequences of the termination of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71
Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

1. In the case of a treaty which is void under article 53 the parties shall:

(a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and

(b) bring their mutual relations into conformity with the peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72
Consequences of the suspension of the operation of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;

(b) does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI: MISCELLANEOUS PROVISIONS

Article 73
Cases of State succession, State responsibility and outbreak of hostilities

The provisions of the present Convention shall not prejudge any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74
Diplomatic and consular relations and the conclusion of treaties

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75
Case of an aggressor State

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII: DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76
Depositaries of treaties

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77
Functions of depositaries

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

(a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;

(b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;

(c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;

(d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;

(e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;

(f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;

(g) registering the treaty with the Secretariat of the United Nations;

(h) performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

Article 78
Notifications and communications

Except as the treaty or the present Convention otherwise provide, any notification or communication

to be made by any State under the present Convention shall:

(a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;

(b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;

(c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph 1 (e).

Article 79
Correction of errors in texts or in certified copies of treaties

1. Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:

(a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives;

(b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or

(c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.

2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised.

If, on the expiry of the time-limit:

(a) no objection has been raised, the depositary shall make and initial the correction in the text and shall execute a *proc* rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;

(b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.

3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text *ab initio,* unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute *a proc communicate* a copy of it to the signatory States and to the contracting States.

Article 80
Registration and publication of treaties

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

PART VIII: FINAL PROVISIONS

Article 81
Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

Article 82
Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 83
Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84
Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention

shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85
Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this twenty-third day of May, one thousand nine hundred and sixty-nine.

ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:
The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary- General receives the request.
The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing.
Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

13. UN GENERAL ASSEMBLY RESOLUTION 2625 (XXV): DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967, 2463 (XXIII) of 20 December 1968 and 2533 (XXIV) of 8 December 1969, in which it affirmed the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Having considered the report of the Special Committee on Principles of International Law concerning Friendly Relations and Cooperation among States, which met in Geneva from 31 March to 1 May 1970,

Emphasizing the paramount importance of the Charter of the United Nations for the maintenance of international peace and security and for the development of friendly relations and co-operation among States,

Deeply convinced that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations on the occasion of the twenty-fifth anniversary of the United Nations would contribute to the strengthening of world peace and constitute a landmark in the development of international law and of relations among States, in promoting the rule of law among nations and particularly the universal application of the principles embodied in the Charter,

Considering the desirability of the wide dissemination of the text of the Declaration,

1. *Approves* the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the text of which is annexed to the present resolution;

2. *Expresses its appreciation* to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States for its work resulting in the elaboration of the Declaration;

3. *Recommends* that all efforts be made so that the Declaration becomes generally known.

1883rd plenary meeting,
24 October 1970

PART III

INTERNATIONAL CONVENTIONS AND OTHER LEGAL INSTRUMENTS IN THE FIELD OF ENVIRONMENT AND DEVELOPMENT

SECTION I - DECLARATIONS

14. DECLARATION OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

The United Nations Conference on the Human Environment,

Having met at Stockholm from 5 to 16 June 1972,

Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

I

Proclaims that:

1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights- even the right to life itself.

2. The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

3. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time, man's capability to transform his surroundings, if used wisely, can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies, harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.

4. In the developing countries most of the environmental problems are caused by under-development. Millions continue to live far below the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health and sanitation. Therefore, the developing countries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. For the same purpose, the industrialized countries should make efforts to reduce the gap themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development.

5. The natural growth of population continuously presents problems for the preservation of the environment, and adequate policies and measures should be adopted; as appropriate, to face these problems. Of all things in the world, people are the most precious. It is the people that propel social progress, create social wealth, develop science and technology and, through their hard work, continuously transform the human environment. Along with social progress and the advance of production, science and technology, the capability of man to improve the environment increases with each passing day.

6. A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind-a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic, and social development.

7. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level; all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world

environment of the future. Local and national governments will bear the greatest burden for large-scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest. The Conference calls upon Governments and peoples to exert common efforts for the preservation and improvement of the human environment, for the benefit of all the people and for their posterity.

II

PRINCIPLES

States the common conviction that:

PRINCIPLE 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

PRINCIPLE 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

PRINCIPLE 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

PRINCIPLE 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperil led by a combination of adverse factors. Nature conservation, including wildlife, must therefore receive importance in planning for economic development.

PRINCIPLE 5

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

PRINCIPLE 6

The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

PRINCIPLE 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

PRINCIPLE 8

Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

PRINCIPLE 9

Environmental deficiencies generated by the conditions of under-development and natural disasters pose grave problems and can best be remedied by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic effort of the developing countries and such timely assistance as may be required.

PRINCIPLE 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management since economic factors as well as ecological processes must be taken into account.

PRINCIPLE 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be

taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

PRINCIPLE 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

PRINCIPLE 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and co-ordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.

PRINCIPLE 14

Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

PRINCIPLE 15

Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect, projects which are designed for colonialist and racist domination must be abandoned.

PRINCIPLE 16

Demographic policies which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment of the human environment and impede development.

PRINCIPLE 17

Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with a view to enhancing environmental quality.

PRINCIPLE 18

Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind.

PRINCIPLE 19

Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature on the need to protect and improve the environment in order to enable man to develop in every respect.

PRINCIPLE 20

Scientific research and development in the context of environmental problems, both national and multinational, must be promoted in all countries, especially the developing countries. In this connection, the free flow of up-to-date scientific information and transfer of experience must be supported and assisted, to facilitate the solution of environmenta1 problems; environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

PRINCIPLE 21

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas, beyond the limits of national jurisdiction.

PRINCIPLE 22

States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

PRINCIPLE 23

Without prejudice to such criteria as may be agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.

PRINCIPLE 24

International matters concerning the protection and improvement of the environment should be handled in a co-operative spirit by all countries, big and small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.

PRINCIPLE 25

States shall ensure that international organizations playa co-ordinated, efficient and dynamic role for the protection and improvement of the environment.

PRINCIPLE 26

Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.

21st plenary meeting
16 June 1972

15. UN GENERAL ASSEMBLY RESOLUTION 37/7: WORLD CHARTER FOR NATURE

The General Assembly,

Having considered the report of the Secretary-General on the revised draft World Charter for Nature,

Recalling that, in its resolution 35/7 of 30 October 1980, it expressed its conviction that the benefits which could be obtained from nature depended on the maintenance of natural processes and on the diversity of life forms and that those benefits were jeopardized by the excessive exploitation and the destruction of natural habitats,

Further recalling that, in the same resolution, it recognized the need for appropriate measures at the national and international levels to protect nature and promote international co-operation in that field,

Recalling that, in its resolution 36/6 of 27 October 1981, it again expressed its awareness of the crucial importance attached by the international community to the promotion and development of co-operation aimed at protecting and safeguarding the balance and quality of nature and invited the Secretary-General to transmit to Member States the text of the revised version of the draft World Charter for Nature contained in the report of the Ad Hoc Group of Experts on the draft World Charter for Nature, as well as any further observations by States, with a view to appropriate consideration by the General Assembly at its thirty-seventh session,

Conscious of the spirit and terms of its resolutions 35/7 and 36/6, in which it solemnly invited Member States, in the exercise of their permanent sovereignty over their natural resources, to conduct their activities in recognition of the supreme importance of protecting natural systems, maintaining the balance and quality of nature and conserving natural resources, in the interests of present and future generations,

Having considered the supplementary report of the Secretary-General,

Expressing its gratitude to the Ad Hoc Group of Experts which, through its work, has assembled the necessary elements for the General Assembly to be able to complete the consideration of and adopt the revised draft World Charter for Nature at its thirty-seventh session, as it had previously recommended,

Adopts and solemnly proclaims the World Charter for Nature contained in the annex to the present resolution.

ANNEX

World Charter for Nature

The General Assembly,

Reaffirming the fundamental purposes of the United Nations, in particular the maintenance of international peace and security, the development of friendly relations among nations and the achievement of international cooperation in solving international problems of an economic, social, cultural, technical, intellectual or humanitarian character,

Aware that:

(a) Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients,

(b) Civilization is rooted in nature, which has shaped human culture and influenced all artistic and scientific achievements, and living in harmony with nature gives man the best opportunities for the development of his creativity, and for rest and recreation,

Convinced that:

(a) Every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action,

(b) Man can alter nature and exhaust natural resources by his action or its consequences and, therefore, must fully recognize the urgency of maintaining the stability and quality of nature and of conserving natural resources,

Persuaded that:

(a) Lasting benefits from nature depend upon the maintenance of essential ecological processes and life support systems, and upon the diversity of life forms, which are jeopardized through excessive exploitation and habitat destruction by man,

(b) The degradation of natural systems owing to excessive consumption and misuse of natural resources, as well as to failure to establish an appropriate economic order among peoples and among States, leads to the breakdown of the economic, social and political framework of civilization,

(c) Competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the

maintenance of peace and cannot be achieved until mankind learns to live in peace and to forsake war and armaments,

Reaffirming that man must acquire the knowledge to maintain and enhance his ability to use natural resources in a manner which ensures the preservation of the species and ecosystems for the benefit of present and future generations,

Firmly convinced of the need for appropriate measures, at the national and international, individual and collective, and private and public levels, to protect nature and promote international co-operation in this field,

Adopts, to these ends, the present World Charter for Nature, which proclaims the following principles of conservation by which all human conduct affecting nature is to be guided and judged.

I. GENERAL PRINCIPLES

1. Nature shall be respected and its essential processes shall not be impaired.

2. The genetic viability on the earth shall not be compromised; the population levels of all life forms, wild and domesticated, must be at least sufficient for their survival, and to this end necessary habitat shall be safeguarded.

3. All areas of the earth, both land and sea, shall be subject to these principles of conservation; special protection shall be given to unique areas, to representative samples of all the different types of ecosystems and to the habitat of rare or endangered species.

4. Ecosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist.

5. Nature shall be secured against degradation caused by warfare or other hostile activities.

II. FUNCTIONS

1. In the decision-making process it shall be recognized that man's needs can be met only by ensuring the proper functioning of natural systems and by respecting the principles set forth in the present Charter.

2. In the planning and implementation of social and economic development activities, due account shall be taken of the fact that the conservation of nature is an integral part of those activities.

3. In formulating long-term plans for economic development, population growth and the improvement of standards of living, due account shall be taken of the long-term capacity of natural systems to ensure the subsistence and settlement of the populations concerned, recognizing that this capacity may be enhanced through science and technology.

4. The allocation of areas of the earth to various uses shall be planned and due account shall be taken of the physical constraints, the biological productivity and diversity and the natural beauty of the areas concerned.

5. Natural resources shall not be wasted, but used with a restraint appropriate to the principles set forth in the present Charter, in accordance with the following rules:

(a) Living resources shall not be utilized in excess of their natural capacity for regeneration;

(b) The productivity of soils shall be maintained or enhanced through measures which safeguard their long-term fertility and the process of organic decomposition, and prevent erosion and all other forms of degradation;

(c) Resources, including water, which are not consumed as they are used shall be reused or recycled;

(d) Non-renewable resources which are consumed as they are used shall be exploited with restraint, taking into account their abundance, their rational possibilities of converting them for consumption, and the compatibility of their exploitation with the functioning of natural systems.

6. Activities which might have an impact on nature shall be controlled, and the best available technologies that minimize significant risks to nature or other adverse effects shall be used; in particular:

(a) Activities which are likely to cause irreversible damage to nature shall be avoided;

(b) Activities which are likely to pose a significant risk to nature shall be preceded by an exhaustive examination; their proponents shall demonstrate that expected benefits outweigh potential damage to nature, and where potential adverse effects are not fully understood, the activities should not proceed;

(c) Activities which may disturb nature shall be preceded by assessment of their consequences, and environmental impact studies of development projects shall be conducted sufficiently in advance, and if they are to be undertaken, such activities shall be planned and carried out so as to minimize potential adverse effects;

(d) Agriculture, grazing, forestry and fisheries practices shall be adapted to the natural characteristics and constraints of given areas;

(e) Areas degraded by human activities shall be rehabilitated for purposes in accord with their natural potential and compatible with the well-being of affected populations.

7. Discharge of pollutants into natural systems shall be avoided and:
   (a) Where this is not feasible, such pollutants shall be treated at the source, using the best practicable means available;

   (b) Special precautions shall be taken to prevent discharge of radioactive or toxic wastes.

8. Measures intended to prevent, control or limit natural disasters, infestations and diseases shall be specifically directed to the causes of these scourges and shall avoid averse side-effects on nature.

III. IMPLEMENTATION

9. The principles set forth in the present Charter shall be reflected in the law and practice of each State, as well as at the international level.

10. Knowledge of nature shall be broadly disseminated by all possible means, particularly by ecological education as an integral part of general education.

11. All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of these elements shall be disclosed to the public by appropriate means in time to permit effective consultation and participation.

12. Funds, programmes and administrative structures necessary to achieve the objective of the conservation of nature shall be provided.

13. Constant efforts shall be made to increase knowledge of nature by scientific research and to disseminate such knowledge unimpeded by restrictions of any kind.

14. The status of natural processes, ecosystems and species shall be closely monitored to enable early detection of degradation or threat, ensure timely intervention and facilitate the evaluation of conservation policies and methods.

15. Military activities damaging to nature shall be avoided.

16. States and, to the extent they are able, other public authorities, international organizations, individuals, groups and corporations shall:
   (a) Co-operate in the task of conserving nature through common activities and other relevant actions, including information exchange and consultations;

   (b) Establish standards for products and other manufacturing processes that may have adverse effects on nature, as well as agreed methodologies for assessing these effects;

   (c) Implement the applicable international legal provisions for the conservation of nature and the protection of the environment;

   (d) Ensure that activities within their jurisdictions or control do not cause damage to the natural systems located within other States or in the areas beyond the limits of national jurisdiction;

   (e) Safeguard and conserve nature in areas beyond national jurisdiction.

17. Taking fully into account the sovereignty of States over their natural resources, each State shall give effect to the provisions of the present Charter through its competent organs and in co-operation with other States.

18. All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of redress when their environment has suffered damage or degradation.

Each person has a duty to act in accordance with the provisions of the present Charter, acting individually, in association with others or through participation in the political process, each person shall strive to ensure that the objectives and requirements of the present Charter are met.

48th plenary meeting
28 October 1982

16. RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

PREAMBLE

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the integral and interdependent nature of the Earth, our home,

Proclaims that:

PRINCIPLE 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

PRINCIPLE 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

PRINCIPLE 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

PRINCIPLE 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

PRINCIPLE 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

PRINCIPLE 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

PRINCIPLE 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

PRINCIPLE 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

PRINCIPLE 9

States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

PRINCIPLE 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and

participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

PRINCIPLE 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

PRINCIPLE 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

PRINCIPLE 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

PRINCIPLE 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

PRINCIPLE 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

PRINCIPLE 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

PRINCIPLE 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

PRINCIPLE 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

PRINCIPLE 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

PRINCIPLE 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

PRINCIPLE 21

The creativity, ideal, and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

PRINCIPLE 22

Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

PRINCIPLE 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

PRINCIPLE 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

PRINCIPLE 25

Peace, development and environmental protection are interdependent and indivisible.

PRINCIPLE 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

PRINCIPLE 27

States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

17. UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 55/2: UNITED NATIONS MILLENNIUM DECLARATION

The General Assembly

Adopts the following Declaration:

United Nations Millennium Declaration

I. Values and principles

1. We, heads of State and Government, have gathered at United Nations Headquarters in New York from 6 to 8 September 2000, at the dawn of a new millennium, to reaffirm our faith in the Organization and its Charter as indispensable foundations of a more peaceful, prosperous and just world.

2. We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.

3. We reaffirm our commitment to the purposes and principles of the Charter of the United Nations, which have proved timeless and universal. Indeed, their relevance and capacity to inspire have increased, as nations and peoples have become increasingly interconnected and interdependent.

4. We are determined to establish a just and lasting peace all over the world in accordance with the purposes and principles of the Charter. We rededicate ourselves to support all efforts to uphold the sovereign equality of all States, respect for their territorial integrity and political independence, resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination and foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion and international cooperation in solving international problems of an economic, social, cultural or humanitarian character.

5. We believe that the central challenge we face today is to ensure that globalization becomes a positive force for all the world's people. For while globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed. We recognize that developing countries and countries with economies in transition face special difficulties in responding to this central challenge. Thus, only through broad and sustained efforts to create a shared future, based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable. These efforts must include policies and measures, at the global level, which correspond to the needs of developing countries and economies intransition and are formulated and implemented with their effective participation.

6. We consider certain fundamental values to be essential to international relations in the twenty-first century. These include:

• **Freedom.** Men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights.

• **Equality.** No individual and no nation must be denied the opportunity to benefit from development. The equal rights and opportunities of women and men must be assured.

• **Solidarity.** Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most.

• **Tolerance.** Human beings must respect one other, in all their diversity of belief, culture and language. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue among all civilizations should be actively promoted.

• **Respect for nature.** Prudence must be shown in the management of all living species and natural resources, in accordance with the precepts of sustainable development. Only in this way can the immeasurable riches provided to us by nature be preserved and passed on to our descendants. The current unsustainable patterns of production and consumption must be changed in the interest of our future welfare and that of our descendants.

• **Shared responsibility.** Responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally. As the most universal and most representative organization in the world, the United Nations must play the central role.

7. In order to translate these shared values into actions, we have identified key objectives to which we assign special significance.

II. Peace, security and disarmament

8. We will spare no effort to free our peoples from the scourge of war, whether within or between States, which has claimed more than 5 million lives in the past decade. We will also seek to eliminate the dangers posed by weapons of mass destruction.

9. We resolve therefore:
• To strengthen respect for the rule of law in international as in national affairs and, in particular, to ensure compliance by Member States with the decisions of the International Court of Justice, in compliance with the Charter of the United Nations, in cases to which they are parties.
• To make the United Nations more effective in maintaining peace and security by giving it the resources and tools it needs for conflict prevention, peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction. In this context, we take note of the report of the Panel on United Nations Peace Operations1 and request the General Assembly to consider its recommendations expeditiously.
• To strengthen cooperation between the United Nations and regional organizations, in accordance with the provisions of Chapter VIII of the Charter.
• To ensure the implementation, by States Parties, of treaties in areas such as arms control and disarmament and of international humanitarian law and human rights law, and call upon all States to consider signing and ratifying the Rome Statute of the International Criminal Court.
• To take concerted action against international terrorism, and to accede as soon as possible to all the relevant international conventions.
• To redouble our efforts to implement our commitment to counter the world drug problem.
• To intensify our efforts to fight transnational crime in all its dimensions, including trafficking as well as smuggling in human beings and money laundering.
• To minimize the adverse effects of United Nations economic sanctions on innocent populations, to subject such sanctions regimes to regular reviews and to eliminate the adverse effects of sanctions on third parties.
• To strive for the elimination of weapons of mass destruction, particularly nuclear weapons, and to keep all options open for achieving this aim, including the possibility of convening an international conference to identify ways of eliminating nuclear dangers.
• To take concerted action to end illicit traffic in small arms and light weapons, especially by making arms transfers more transparent and supporting regional disarmament measures, taking account of all the recommendations of the forthcoming United Nations Conference on Illicit Trade in Small Arms and Light Weapons.
• To call on all States to consider acceding to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, as well as the amended mines protocol to the Convention on conventional weapons.

10. We urge Member States to observe the Olympic Truce, individually and collectively, now and in the future, and to support the International Olympic Committee in its efforts to promote peace and human understanding through sport and the Olympic Ideal.

III. Development and poverty eradication

11. We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.

12. We resolve therefore to create an environment – at the national and global levels alike – which is conducive to development and to the elimination of poverty.

13. Success in meeting these objectives depends, *inter alia*, on good governance within each country. It also depends on good governance at the international level and on transparency in the financial, monetary and trading systems. We are committed to an open, equitable, rule-based, predictable and nondiscriminatory multilateral trading and financial system.

14. We are concerned about the obstacles developing countries face in mobilizing the resources needed to finance their sustained development. We will therefore make every effort to ensure the success of the High-level International and Intergovernmental Event on Financing for Development, to be held in 2001.

15. We also undertake to address the special needs of the least developed countries. In this context, we welcome the Third United Nations Conference on the Least Developed Countries to be held in May 2001 and will endeavour to ensure its success. We call on the industrialized countries:
• To adopt, preferably by the time of that Conference, a policy of duty- and quota-free access for essentially all exports from the least developed countries;
• To implement the enhanced programme of debt relief for the heavily indebted poor countries without further delay and to agree to cancel all official bilateral debts of those countries in return for their making demonstrable commitments to poverty reduction; and
• To grant more generous development assistance, especially to countries that are genuinely making an effort to apply their resources to poverty reduction.

16. We are also determined to deal comprehensively and effectively with the debt problems of low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term.

17. We also resolve to address the special needs of small island developing States, by implementing the Barbados Programme of Action5 and the outcome of the twenty-second special session of the General Assembly rapidly and in full. We urge the international community to ensure that, in the development of a vulnerability index, the special needs of small island developing States are taken into account.

18. We recognize the special needs and problems of the landlocked developing countries, and urge both bilateral and multilateral donors to increase financial and technical assistance to this group of countries to meet their special development needs and to help them overcome the impediments of geography by improving their transit transport systems.

19. We resolve further:
• To halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water.
• To ensure that, by the same date, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education.
• By the same date, to have reduced maternal mortality by three quarters, and under-five child mortality by two thirds, of their current rates.
• To have, by then, halted, and begun to reverse, the spread of HIV/AIDS, the scourge of malaria and other major diseases that afflict humanity.
• To provide special assistance to children orphaned by HIV/AIDS.
• By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers as proposed in the "Cities Without Slums" initiative.

20. We also resolve:
• To promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable.
• To develop and implement strategies that give young people everywhere a real chance to find decent and productive work.
• To encourage the pharmaceutical industry to make essential drugs more widely available and affordable by all who need them in developing countries.
• To develop strong partnerships with the private sector and with civil society organizations in pursuit of development and poverty eradication.
• To ensure that the benefits of new technologies, especially information and communication technologies, in conformity with recommendations contained in the ECOSOC 2000 Ministerial Declaration, are available to all.

IV. Protecting our common environment

21. We must spare no effort to free all of humanity, and above all our children and grandchildren, from the threat of living on a planet irredeemably spoilt by human activities, and whose resources would no longer be sufficient for their needs.

22. We reaffirm our support for the principles of sustainable development, including those set out in Agenda 21, agreed upon at the United Nations Conference on Environment and Development.

23. We resolve therefore to adopt in all our environmental actions a new ethic of conservation and stewardship and, as first steps, we resolve:
• To make every effort to ensure the entry into force of the Kyoto Protocol, preferably by the tenth anniversary of the United Nations Conference on Environment and Development in 2002, and to embark on the required reduction in emissions of greenhouse gases.
• To intensify our collective efforts for the management, conservation and sustainable development of all types of forests.
• To press for the full implementation of the Convention on Biological Diversity8 and the Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa.
• To stop the unsustainable exploitation of water resources by developing water management strategies at the regional, national and local levels, which promote both equitable access and adequate supplies.
• To intensify cooperation to reduce the number and effects of natural and manmade disasters.
• To ensure free access to information on the human genome sequence.

V. Human rights, democracy and good governance

24. We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.

25. We resolve therefore:
• To respect fully and uphold the Universal Declaration of Human Rights.
• To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
• To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights.
• To combat all forms of violence against women and

to implement the Convention on the Elimination of All Forms of Discrimination against Women.
• To take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.
• To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.
• To ensure the freedom of the media to perform their essential role and the right of the public to have access to information.

VI. Protecting the vulnerable

26. We will spare no effort to ensure that children and all civilian populations that suffer disproportionately the consequences of natural disasters, genocide, armed conflicts and other humanitarian emergencies are given every assistance and protection so that they can resume normal life as soon as possible.
We resolve therefore:
• To expand and strengthen the protection of civilians in complex emergencies, in conformity with international humanitarian law.
• To strengthen international cooperation, including burden sharing in, and the coordination of humanitarian assistance to, countries hosting refugees and to help all refugees and displaced persons to return voluntarily to their homes, in safety and dignity and to be smoothly reintegrated into their societies.
• To encourage the ratification and full implementation of the Convention on the Rights of the Child12 and its optional protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

VII. Meeting the special needs of Africa

27. We will support the consolidation of democracy in Africa and assist Africans in their struggle for lasting peace, poverty eradication and sustainable development, thereby bringing Africa into the mainstream of the world economy.

28. We resolve therefore:
• To give full support to the political and institutional structures of emerging democracies in Africa.
• To encourage and sustain regional and subregional mechanisms for preventing conflict and promoting political stability, and to ensure a reliable flow of resources for peacekeeping operations on the continent.
• To take special measures to address the challenges of poverty eradication and sustainable development in Africa, including debt cancellation, improved market access, enhanced Official Development Assistance and increased flows of Foreign Direct Investment, as well as transfers of technology.
• To help Africa build up its capacity to tackle the spread of the HIV/AIDS pandemic and other infectious diseases.

VIII. Strengthening the United Nations

29. We will spare no effort to make the United Nations a more effective instrument for pursuing all of these priorities: the fight for development for all the peoples of the world, the fight against poverty, ignorance and disease; the fight against injustice; the fight against violence, terror and crime; and the fight against the degradation and destruction of our common home.

30. We resolve therefore:
• To reaffirm the central position of the General Assembly as the chief deliberative, policy-making and representative organ of the United Nations, and to enable it to play that role effectively.
• To intensify our efforts to achieve a comprehensive reform of the Security Council in all its aspects.
• To strengthen further the Economic and Social Council, building on its recent achievements, to help it fulfil the role ascribed to it in the Charter.
• To strengthen the International Court of Justice, in order to ensure justice and the rule of law in international affairs.
• To encourage regular consultations and coordination among the principal organs of the United Nations in pursuit of their functions.
• To ensure that the Organization is provided on a timely and predictable basis with the resources it needs to carry out its mandates.
• To urge the Secretariat to make the best use of those resources, in accordance with clear rules and procedures agreed by the General Assembly, in the interests of all Member States, by adopting the best management practices and technologies available and by concentrating on those tasks that reflect the agreed priorities of Member States.
• To promote adherence to the Convention on the Safety of United Nations and Associated Personnel.
• To ensure greater policy coherence and better cooperation between the United Nations, its agencies, the Bretton Woods Institutions and the World Trade Organization, as well as other multilateral bodies, with a view to achieving a fully coordinated approach to the problems of peace and development.
• To strengthen further cooperation between the United Nations and national parliaments through their world organization, the Inter-Parliamentary Union, in various fields, including peace and security, economic and social development, international law and human rights and democracy and gender issues.
• To give greater opportunities to the private sector, non-governmental organizations and civil society, in general, to contribute to the realization of the Organization's goals and programmes.

31. We request the General Assembly to review on a regular basis the progress made in implementing the provisions of this Declaration, and ask the Secretary-General to issue periodic reports for consideration by the General Assembly and as a basis for further action.

32. We solemnly reaffirm, on this historic occasion, that the United Nations is the indispensable common house of the entire human family, through which we will seek to realize our universal aspirations for peace, cooperation and development. We therefore pledge our unstinting support for these common objectives and our determination to achieve them.

8th plenary meeting
8 September 2000

18. WORLD TRADE ORGANIZATION: THE FOURTH WTO MINISTERIAL DECLARATION (DOHA)

MINISTERIAL DECLARATION

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.

2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.

3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO´s continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan,

Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

Implementation-Related Issues And Concerns

12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

Agriculture

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

Services

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural

persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

Market Access for Non-agricultural Products

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

Trade-Related Aspects of Intellectual Property Rights

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

Relationship between Trade and Investment

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other

relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

Interaction between Trade and Competition Policy

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

Transparency in Government Procurement

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

Trade Facilitation

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO Rules

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

Dispute Settlement Understanding

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by

Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

Trade and Environment

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

(i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
(ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
(iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

(i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
(ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
(iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

Electronic Commerce

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

Small Economies

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

Trade, Debt and Finance

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and

least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

Trade and Transfer of Technology

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

Technical Cooperation and Capacity Building

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

Least-Developed Countries

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.

43. We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.

Special and Differential Treatment

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:
(i) all Members of the WTO; and
(ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

Adopted on 14 November 2001 in Doha, Qatar
AT THE FOURTH MINISTERIAL CONFERENCE OF
THE WORLD TRADE ORGANIZATION

Doc: WT/MIN(01)/DEC/1, 20 November 2001

19. JOHANNESBURG DECLARATION ON SUSTAINABLE DEVELOPMENT

From our origins to the future

1. We, the representatives of the peoples of the world, assembled at the World Summit on Sustainable Development in Johannesburg, South Africa, from 2 to 4 September 2002, reaffirm our commitment to sustainable development.

2. We commit ourselves to building a humane, equitable and caring global society, cognizant of the need for human dignity for all.

3. At the beginning of this Summit, the children of the world spoke to us in a simple yet clear voice that the future belongs to them, and accordingly challenged all of us to ensure that through our actions they will inherit a world free of the indignity and indecency occasioned by poverty, environmental degradation and patterns of unsustainable development.

4. As part of our response to these children, who represent our collective future, all of us, coming from every corner of the world, informed by different life experiences, are united and moved by a deeply felt sense that we urgently need to create a new and brighter world of hope.

5. Accordingly, we assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development - economic development, social development and environmental protection - at the local, national, regional and global levels.

6. From this continent, the cradle of humanity, we declare, through the Plan of Implementation of the World Summit on Sustainable Development and the present Declaration, our responsibility to one another, to the greater community of life and to our children.

7. Recognizing that humankind is at a crossroad, we have united in a common resolve to make a determined effort to respond positively to the need to produce a practical and visible plan to bring about poverty eradication and human development.

From Stockholm to Rio de Janeiro to Johannesburg

8. Thirty years ago, in Stockholm, we agreed on the urgent need to respond to the problem of environmental deterioration. Ten years ago, at the United Nations Conference on Environment and Development, held in Rio de Janeiro, we agreed that the protection of the environment and social and economic development are fundamental to sustainable development, based on the Rio Principles. To achieve such development, we adopted the global programme entitled Agenda 21 and the Rio Declaration on Environment and Development,to which we reaffirm our commitment. The Rio Conference was a significant milestone that set a new agenda for sustainable development.

9. Between Rio and Johannesburg, the world's nations have met in several major conferences under the auspices of the United Nations, including the International Conference on Financing for Development, as well as the Doha Ministerial Conference. These conferences defined for the world a comprehensive vision for the future of humanity.

10. At the Johannesburg Summit, we have achieved much in bringing together a rich tapestry of peoples and views in a constructive search for a common path towards a world that respects and implements the vision of sustainable development. The Johannesburg Summit has also confirmed that significant progress has been made towards achieving a global consensus and partnership among all the people of our planet.

The challenges we face

11. We recognize that poverty eradication, changing consumption and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development.

12. The deep fault line that divides human society between the rich and the poor and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability.

13. The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life.

14. Globalization has added a new dimension to these challenges. The rapid integration of markets, mobility of capital and significant increases in investment flows around the world have opened new challenges and opportunities for the pursuit of sustainable development. But the benefits and costs of globalization are unevenly distributed, with developing countries facing special difficulties in meeting this challenge.

15. We risk the entrenchment of these global disparities and unless we act in a manner that fundamentally changes their lives the poor of the world may lose confidence in their representatives and the

democratic systems to which we remain committed, seeing their representatives as nothing more than sounding brass or tinkling cymbals.

Our commitment to sustainable development

16. We are determined to ensure that our rich diversity, which is our collective strength, will be used for constructive partnership for change and for the achievement of the common goal of sustainable development.

17. Recognizing the importance of building human solidarity, we urge the promotion of dialogue and cooperation among the world's civilizations and peoples, irrespective of race, disabilities, religion, language, culture or tradition.

18. We welcome the focus of the Johannesburg Summit on the indivisibility of human dignity and are resolved, through decisions on targets, timetables and partnerships, to speedily increase access to such basic requirements as clean water, sanitation, adequate shelter, energy, health care, food security and the protection of biodiversity. At the same time, we will work together to help one another gain access to financial resources, benefit from the opening of markets, ensure capacity-building, use modern technology to bring about development and make sure that there is technology transfer, human resource development, education and training to banish underdevelopment forever.

19. We reaffirm our pledge to place particular focus on, and give priority attention to, the fight against the worldwide conditions that pose severe threats to the sustainable development of our people, which include: chronic hunger; malnutrition; foreign occupation; armed conflict; illicit drug problems; organized crime; corruption; natural disasters; illicit arms trafficking; trafficking in persons; terrorism; intolerance and incitement to racial, ethnic, religious and other hatreds; xenophobia; and endemic, communicable and chronic diseases, in particular HIV/AIDS, malaria and tuberculosis.

20. We are committed to ensuring that women's empowerment, emancipation and gender equality are integrated in all the activities encompassed within Agenda 21, the Millennium development goals and the Plan of Implementation of the Summit.

21. We recognize the reality that global society has the means and is endowed with the resources to address the challenges of poverty eradication and sustainable development confronting all humanity. Together, we will take extra steps to ensure that these available resources are used to the benefit of humanity.

22. In this regard, to contribute to the achievement of our development goals and targets, we urge developed countries that have not done so to make concrete efforts reach the internationally agreed levels of official development assistance.

23. We welcome and support the emergence of stronger regional groupings and alliances, such as the New Partnership for Africa's Development, to promote regional cooperation, improved international cooperation and sustainable development.

24. We shall continue to pay special attention to the developmental needs of small island developing States and the least developed countries.

25. We reaffirm the vital role of the indigenous peoples in sustainable development.

26. We recognize that sustainable development requires a long-term perspective and broad-based participation in policy formulation, decision-making and implementation at all levels. As social partners, we will continue to work for stable partnerships with all major groups, respecting the independent, important roles of each of them.

27. We agree that in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies.

28. We also agree to provide assistance to increase income-generating employment opportunities, taking into account the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization.

29. We agree that there is a need for private sector corporations to enforce corporate accountability, which should take place within a transparent and stable regulatory environment.

30. We undertake to strengthen and improve governance at all levels for the effective implementation of Agenda 21, the Millennium development goals and the Plan of Implementation of the Summit.

Multilateralism is the future

31. To achieve our goals of sustainable development, we need more effective, democratic and accountable international and multilateral institutions.

32. We reaffirm our commitment to the principles and purposes of the Charter of the United Nations and international law, as well as to the strengthening of multilateralism. We support the leadership role of the United Nations as the most universal and representative organization in the world, which is best placed to promote sustainable development.

33. We further commit ourselves to monitor progress at regular intervals towards the achievement of our sustainable development goals and objectives.

Making it happen!

34. We are in agreement that this must be an inclusive process, involving all the major groups and Governments that participated in the historic Johannesburg Summit.

35. We commit ourselves to act together, united by a common determination to save our planet, promote human development and achieve universal prosperity and peace.

36. We commit ourselves to the Plan of Implementation of the World Summit on Sustainable Development and to expediting the achievement of the time-bound, socio-economic and environmental targets contained therein.

37. From the African continent, the cradle of humankind, we solemnly pledge to the peoples of the world and the generations that will surely inherit this earth that we are determined to ensure that our collective hope for sustainable development is realized.

Adopted at the at the 17th plenary meeting of the World Summit on Sustainable Development, 4 September 2002

SECTION II - GLOBAL AGREEMENTS

20.CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE ESPECIALLY AS WATERFOWL HABITAT (RAMSAR)

The Contracting Parties,

RECOGNIZING the interdependence of Man and his environment;

CONSIDERING the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl;

BEING CONVINCED that wetlands constitute a resource of great economic, cultural, scientific, and recreational value, the loss of which would be irreparable;

DESIRING to stem the progressive encroachment on and loss of wetlands now and in the future;

RECOGNIZING that waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource;

BEING CONFIDENT that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with co-ordinated international action;

HAVE AGREED AS FOLLOWS:

Article 1

1. For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.

2. For the purpose of this Convention waterfowl are birds ecologically dependent on wetlands.

Article 2

1. Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, hereinafter referred to as "the List" which is maintained by the bureau established under Article 8. The boundaries of each wetland shall be precisely described and also delimited on a map and they may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands, especially where these have importance as waterfowl habitat.

2. Wetlands should be selected for the List on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance wetlands of international importance to waterfowl at any season should be included.

3. The inclusion of a wetland in the List does not prejudice the exclusive sovereign rights of the Contracting Party in whose territory the wetland is situated.

4. Each Contracting Party shall designate at least one wetland to be included in the List when signing this Convention or when depositing its instrument of ratification or accession, as provided in Article 9.

5. Any Contracting Party shall have the right to add to the List further wetlands situated within its territory, to extend the boundaries of those wetlands already included by it in the List, or, because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List and shall, at the earliest possible time, inform the organization or government responsible for the continuing bureau duties specified in Article 8 of any such changes.

6. Each Contracting Party shall consider its international responsibilities for the conservation, management and wise use of migratory stocks of waterfowl, both when designating entries for the List and when exercising its right to change entries in the List relating to wetlands within its territory.

Article 3

1. The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.

2. Each Contracting Party shall arrange to be informed at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the organization or government responsible for the continuing bureau duties specified in Article 8.

Article 4

1. Each Contracting Party shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, whether they are included in the List or not, and provide adequately for their wardening.

2. Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.

3. The Contracting Parties shall encourage research and the exchange of data and publications regarding wetlands and their flora and fauna.

4. The Contracting Parties shall endeavour through management to increase waterfowl populations on appropriate wetlands.

5. The Contracting Parties shall promote the training of personnel competent in the fields of wetland research, management and wardening.

Article 5

1. The Contracting Parties shall consult with each other about implementing obligations arising from the Convention especially in the case of a wetland extending over the territories of more than one Contracting Party or where a water system is shared by Contracting Parties. They shall at the same time endeavour to coordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna.

Article 6

1. There shall be established a Conference of the Contracting Parties to review and promote the implementation of this Convention. The Bureau referred to in Article 8, paragraph 1, shall convene ordinary meetings of the Conference of the Contracting Parties at intervals of not more than three years, unless the Conference decides otherwise, and extraordinary meetings at the written requests of at least one third of the Contracting Parties. Each ordinary meeting of the Conference of the Contracting Parties shall determine the time and venue of the next ordinary meeting.

2. The Conference of the Contracting Parties shall be competent:

a. to discuss the implementation of this Convention;

b. to discuss additions to and changes in the List;

c. to consider information regarding changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

d. to make general or specific recommendations to the Contracting Parties regarding the conservation, management and wise use of wetlands and their flora and fauna;

e. to request relevant international bodies to prepare reports and statistics on matters which are essentially international in character affecting wetlands;

f. to adopt other recommendations, or resolutions, to promote the functioning of this Convention.

3. The Contracting Parties shall ensure that those responsible at all levels for wetlands management shall be informed of, and take into consideration, recommendations of such Conferences concerning the conservation, management and wise use of wetlands and their flora and fauna.

4. The Conference of the Contracting Parties shall adopt rules of procedure for each of its meetings.

5. The Conference of the Contracting Parties shall establish and keep under review the financial regulations of this Convention. At each of its ordinary meetings, it shall adopt the budget for the next financial period by a two-third majority of Contracting Parties present and voting.

6. Each Contracting Party shall contribute to the budget according to a scale of contributions adopted by unanimity of the Contracting Parties present and voting at a meeting of the ordinary Conference of the Contracting Parties.

Article 7

1. The representatives of the Contracting Parties at such Conferences should include persons who are experts on wetlands or waterfowl by reason of knowledge and experience gained in scientific, administrative or other appropriate capacities.

2. Each of the Contracting Parties represented at a Conference shall have one vote, recommendations, resolutions and decisions being adopted by a simple majority of the Contracting Parties present and voting, unless otherwise provided for in this Convention.

Article 8

1. The International Union for Conservation of Nature and Natural Resources shall perform the continuing bureau duties under this Convention until such time as another organization or government is appointed by a majority of two-thirds of all Contracting Parties.

2. The continuing bureau duties shall be, *inter alia*:

a. to assist in the convening and organizing of Conferences specified in Article 6;

b. to maintain the List of Wetlands of International Importance and to be informed by the Contracting Parties of any additions, extensions, deletions or restrictions concerning wetlands included in the List provided in accordance with paragraph 5 of Article 2;

c. to be informed by the Contracting Parties of any changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

d. to forward notification of any alterations to the List, or changes in character of wetlands included therein, to all Contracting Parties and to arrange for these matters to be discussed at the next Conference;

e. to make known to the Contracting Party concerned, the recommendations of the Conferences in respect of such alterations to the List or of changes in the character of wetlands included therein.

Article 9

1. This Convention shall remain open for signature indefinitely.

2. Any member of the United Nations or of one of the Specialized Agencies or of the International Atomic Energy Agency or Party to the Statute of the International Court of Justice may become a Party to this Convention by: signature without reservation as to ratification; signature subject to ratification followed by ratification; accession.

2. Ratification or accession shall be effected by the deposit of an instrument of ratification or accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as "the Depositary").

Article 10

1. This Convention shall enter into force four months after seven States have become Parties to this Convention in accordance with paragraph 2 of Article 9.

2. Thereafter this Convention shall enter into force for each Contracting Party four months after the day of its signature without reservation as to ratification, or its deposit of an instrument of ratification or accession.

Article 11

1. This Convention may be amended at a meeting of the Contracting Parties convened for that purpose in accordance with this article.

2. Proposals for amendment may be made by any Contracting Party.

3. The text of any proposed amendment and the reasons for it shall be communicated to the organization or government performing the continuing bureau duties under the Convention (hereinafter referred to as "the Bureau") and shall promptly be communicated by the Bureau to all Contracting Parties. Any comments on the text by the Contracting Parties shall be communicated to the Bureau within three months of the date on which the amendments were communicated to the Contracting Parties by the Bureau. The Bureau shall, immediately after the last day for submission of comments, communicate to the Contracting Parties all comments submitted by that day.

4. A meeting of Contracting Parties to consider an amendment communicated in accordance with paragraph 3 shall be convened by the Bureau upon the written request of one third of the Contracting Parties. The Bureau shall consult the Parties concerning the time and venue of the meeting.

5. Amendments shall be adopted by a two-thirds majority of the Contracting Parties present and voting.

6. An amendment adopted shall enter into force for the Contracting Parties which have accepted it on the first day of the fourth month following the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance with the Depositary. For each Contracting Party which deposits an instrument of acceptance after the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance, the amendment shall enter into force on the first day of the fourth month following the date of the deposit of its instrument of acceptance.

Article 12

1. This Convention shall continue in force for an indefinite period.

2. Any Contracting Party may denounce this Convention after a period of five years from the date on which it entered into force for that party by giving written notice thereof to the Depositary. Denunciation shall take effect four months after the day on which notice thereof is received by the Depositary.

Article 13

1. The Depositary shall inform all States that have signed and acceded to this Convention as soon as possible of:

a. signatures to the Convention;
b. deposits of instruments of ratification of this Convention;
c. deposits of instruments of accession to this Convention;
d. the date of entry into force of this Convention;
e. notifications of denunciation of this Convention.

2. When this Convention has entered into force, the Depositary shall have it registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Ramsar this 2nd day of February 1971, in a single original in the English, French, German and Russian languages, all texts being equally authentic* which shall be deposited with the Depositary which shall send true copies thereof to all Contracting Parties.

Pursuant to the Final Act of the Conference to conclude the Protocol, the Depositary provided the second Conference of the Contracting Parties with official versions of the Convention in the Arabic, Chinese and Spanish languages, prepared in consultation with interested Governments and with the assistance of the Bureau.

21. CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

THE GENERAL CONFERENCE of the United Nations Educational, Scientific and Cultural Organization meeting in Paris from 17 October to 21 November 1972, at its seventeenth session,

Noting that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction,

Considering that deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific, and technological resources of the country where the property to be protected is situated,

Recalling that the Constitution of the Organization provides that it will maintain, increase, and diffuse knowledge, by assuring the conservation and protection of the world's heritage, and recommending to the nations concerned the necessary international conventions,

Considering that the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong,

Considering that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole,

Considering that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto,

Considering that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods,

Having decided, at its sixteenth session, that this question should be made the subject of an international convention,

Adopts this sixteenth day of November 1972 this Convention.

I
DEFINITION OF THE CULTURAL AND NATURAL HERITAGE

Article 1

For the purposes of this Convention, the following shall be considered as "cultural heritage":

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Article 2

For the purposes of this Convention, the following shall be considered as "natural heritage":

natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 3

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

II
NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

a. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

b. to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;

c. to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

d. to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

e. to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

III
INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 8

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee" is hereby established within the United Nations Educational, Scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organization. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this Convention for at least 40 States.

2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.

3. A representative of the International Centre for the Study of the Preservation and Restoration of

Cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the International Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization, representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

Article 9

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.

2. The term of office of one-third of the members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Educational, Scientific and Cultural Organization after the first election.

3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

Article 10

1. The World Heritage Committee shall adopt its Rules of Procedure.

2. The Committee may at any time invite public or private organizations or individuals to participate in its meetings for consultation on particular problems.

3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 11

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.

2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List," a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.

3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.

4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of "\l "debut"List of World Heritage in Danger", a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large- scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicize such entry immediately.

5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.

6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.

7. The Committee shall, with the agreement of the

States concerned, co-ordinate and encourage the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

Article 12

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

Article 13

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists mentioned referred to in paragraphs 2 and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.

2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified.

3. The Committee shall decide on the action to be taken with regard to these requests, determine where appropriate, the nature and extent of its assistance, and authorize the conclusion, on its behalf, of the necessary arrangements with the government concerned.

4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.

5. The Committee shall draw up, keep up to date and publicize a list of property for which international assistance has been granted.

6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.

7. The Committee shall co-operate with international and national governmental and non-governmental organizations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organizations, particularly the International Centre for the Study of the Preservation and Restoration of cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.

8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

Article 14

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. The Director-General of the United Nations Educational, Scientific and Cultural Organization, utilizing to the fullest extent possible the services of the International Centre for the Study of the Preservation and the Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

IV
FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 15

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Fund", is hereby established.

2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organization.

3. The resources of the Fund shall consist of:

a. compulsory and voluntary contributions made by States Parties to this Convention;

b. Contributions, gifts or bequests which may be made by:

i. other States;
ii. the United Nations Educational, Scientific and Cultural Organization, other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations;
iii. public or private bodies or individuals;

c. any interest due on the resources of the Fund;

d. funds raised by collections and receipts from events organized for the benefit of the fund; and

e. all other resources authorized by the Fund's regulations, as drawn up by the World Heritage Committee.

4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

Article 16

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the regular budget of the United Nations Educational, Scientific and Cultural Organization.

2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instrument of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.

3. A State Party to the Convention which has made the declaration referred to in paragraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States parties to the Convention.

4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall not apply to the first election.

The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

Article 17

The States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in "Article1"Articles 1 and "Article2"2 of this Convention.

Article 18

The States Parties to this Convention shall give their assistance to international fund-raising campaigns organized for the World Heritage Fund under the auspices of the United Nations Educational, Scientific and Cultural Organization. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

V
CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE

Article 19

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

Article 20

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article 22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of "Article11"Article 11.

Article 21

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible.

2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.

3. Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.

Article 22

Assistance granted by the World Heritage Committee may take the following forms:

a. studies concerning the artistic, scientific and technical problems raised by the protection, conservation, presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;

b. provisions of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;

c. training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;

d. supply of equipment which the State concerned does not possess or is not in a position to acquire;

e. low-interest or interest-free loans which might be repayable on a long-term basis;

f. the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

Article 23

The World Heritage Committee may also provide international assistance to national or regional centres for the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

Article 24

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

Article 25

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

Article 26

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

VI
EDUCATIONAL PROGRAMMES

Article 27

1. The States Parties to this Convention shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and "2 of the Convention.

2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

Article 28

States Parties to this Convention which receive international assistance under the Convention shall

take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

VII
REPORTS

Article 29

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

2. These reports shall be brought to the attention of the World Heritage Committee.

3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization.

VIII
FINAL CLAUSES

Article 30

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

Article 31

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the General Conference of the Organization to accede to it.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 33

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system:

a. with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States parties which are not federal States;

b. with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 35

1. Each State Party to this Convention may denounce the Convention.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations provided for in Article 35.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this twenty-third day of November 1972, in two authentic copies bearing the signature of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations.

22. CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

(This text contains all the amendments which entered into force)

THE CONTRACTING PARTIES TO THIS CONVENTION,

RECOGNIZING that the marine environment and the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that it is so managed that its quality and resources are not impaired;

RECOGNIZING that the capacity of the sea to assimilate wastes and render them harmless, and its ability to regenerate natural resources, is not unlimited;

RECOGNIZING that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

RECALLING resolution 2749(XXV) of the General Assembly of the United Nations on the principles governing the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

NOTING that marine pollution originates in many sources, such as dumping and discharges through the atmosphere, rivers, estuaries, outfalls and pipelines, and that it is important that States use the best practicable means to prevent such pollution and develop products and processes which will reduce the amount of harmful wastes to be disposed of;

BEING CONVINCED that international action to control the pollution of the sea by dumping can and must be taken without delay but that this action should not preclude discussion of measures to control other sources of marine pollution as soon as possible; and

WISHING to improve protection of the marine environment by encouraging States with a common interest in particular geographical areas to enter into appropriate agreements supplementary to this Convention;

HAVE AGREED as follows:

Article I

Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment, and pledge themselves especially to take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Article II

Contracting Parties shall, as provided for in the following articles, take effective measures individually, according to their scientific, technical and economic capabilities, and collectively, to prevent marine pollution caused by dumping and shall harmonize their policies in this regard.

Article III

For the purposes of this Convention:

1. a. "Dumping" means:
   i. any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
   ii any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea.

   b. "Dumping" does not include:
   i. the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
   ii. placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources will not be covered by the provisions of this Convention.

2. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.

3. "Sea" means all marine waters other than the internal waters of States.

4. "Wastes or other matter" means material and substance of any kind, form or description.

5. "Special permit" means permission granted specifically on application in advance and in accordance with Annex II and Annex III.

6. "General permit" means permission granted in advance and in accordance with Annex III.

7. "The Organization" means the Organization designated by the Contracting Parties in accordance with article XIV(2).

Article IV

1. In accordance with the provisions of this Convention Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below:

(a) the dumping of wastes or other matter listed in Annex I is prohibited;

(b) the dumping of wastes or other matter listed in Annex II requires a prior special permit;

(c) the dumping of all other wastes or matter requires a prior general permit.

2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in sections B and C of that Annex.

3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organization.

Article V

1. The provisions of article IV shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organization.

2. A Contracting Party may issue a special permit as an exception to article IV(1)(a), in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organization which, after consulting other Parties, and international organizations as appropriate, shall, in accordance with article XIV promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organization of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its rights under paragraph (2) at the time of, or subsequent to ratification of, or accession to this Convention.

Article VI

1. Each Contracting Party shall designate an appropriate authority or authorities to:

(a) issue special permits which shall be required prior to, and for, the dumping of matter listed in Annex II and in the circumstances provided for in article V(2);

(b) issue general permits which shall be required prior to, and for, the dumping of all other matter;

(c) keep records of the nature and quantities of all matter permitted to be dumped and the location, time and method of dumping;

(d) monitor individually, or in collaboration with other Parties and competent international organizations, the condition of the seas for the purposes of this Convention.

2. The appropriate authority or authorities of a contracting Party shall issue prior special or general permits in accordance with paragraph (1) in respect of matter intended for dumping:

(a) loaded in its territory;

(b) loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention.

3. In issuing permits under sub-paragraphs (1) (a) and (b) above, the appropriate authority or authorities shall comply with Annex III, together with such additional criteria, measures and requirements as they may consider relevant.

4. Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organization, and

where appropriate to other Parties, the information specified in sub-paragraphs(c) and (d) of paragraph (1) above, and the criteria, measures and requirements it adopts in accordance with paragraph (3) above. The procedure to be followed and the nature of such reports shall be agreed by the Parties in consultation.

Article VII

1. Each Contracting Party shall apply the measures required to implement the present Convention to all:

(a) vessels and aircraft registered in its territory or flying its flag;

(b) vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;

(c) vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Convention.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Convention particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Convention.

4. This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organization accordingly.

5. Nothing in this Convention shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping at sea.

Article VIII

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organization. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to co-operation in the field of monitoring and scientific research.

Article IX

The Contracting Parties shall promote, through collaboration within the Organization and other international bodies, support for those Parties which request it for:

(a) the training of scientific and technical personnel;

(b) the supply of necessary equipment and facilities for research and monitoring;

(c) the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping;

preferably within the countries concerned, so furthering the aims and purposes of this Convention.

Article X

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, caused by dumping of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping.

Article XI

The Contracting Parties shall at their first consultative meeting consider procedures for the settlement of disputes concerning the interpretation and application of this Convention.

Article XII

The Contracting Parties pledge themselves to promote, within the competent specialized agencies and other international bodies, measures to protect the marine environment against pollution caused by:

(a) hydrocarbons, including oil and their wastes;

(b) other noxious or hazardous matter transported by vessels for purposes other than dumping;

(c) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;

(d) radio-active pollutants from all sources, including vessels;

(e) agents of chemical and biological warfare;

(f) wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organization, the codification of signals to be used by vessels engaged in dumping.

Article XIII

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to resolution 2750 C(XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the Organization after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and the responsibility of a coastal State to apply the Convention in a zone adjacent to its coast.

Article XIV

1. The Government of the United Kingdom of Great Britain and Northern Ireland as a depositary shall call a meeting of the Contracting Parties not later than three months after the entry into force of this Convention to decide on organizational matters.

2. The Contracting Parties shall designate a competent Organization existing at the time of that meeting to be responsible for secretariat duties in relation to this Convention. Any Party to this Convention not being a member of this Organization shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties.

3. The Secretariat duties of the Organization shall include:

(a) the convening of consultative meetings of the Contracting Parties not less frequently than once every two years and of special meetings of the Parties at any time on the request of two thirds of the Parties;

(b) preparing and assisting, in consultation with the Contracting Parties and appropriate International Organizations, in the development and implementation of procedures referred to in sub-paragraph (4)(e) of this article;

(c) considering enquiries by, and information from the Contracting Parties, consulting with them and with the appropriate International Organizations, and providing recommendations to the Parties on questions related to, but not specifically covered by the Convention;

(d) conveying to the Parties concerned all notifications received by the Organization in accordance with articles IV(3), V(1) and (2), VI(4), XV, XX and XXI.

Prior to the designation of the Organization these functions shall, as necessary, be performed by the depositary, who for this purpose shall be the Government of the United Kingdom of Great Britain and Northern Ireland.

4. Consultative or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and may, inter alia:

(a) review and adopt amendments to this Convention and its Annexes in accordance with article XV;

(b) invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organization on any scientific or technical aspect relevant to this Convention, including particularly the content of the Annexes;

(c) receive and consider reports made pursuant to article VI(4);

(d) promote co-operation with and between regional organizations concerned with the prevention of marine pollution;

(e) develop or adopt, in consultation with appropriate International Organizations, procedures referred to in article V(2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;

(f) consider any additional action that may be required.

5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

Article XV

1.(a) At meetings of the Contracting Parties called in accordance with article XIV amendments to this Convention may be adopted by a two-thirds majority of those present.

(b) An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organization. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.

(c) The Organization shall inform all Contracting Parties of any request made for a special meeting

under article XIV and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.

2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the annexes approved by a two-thirds majority of those present at a meeting called in accordance with article XIV shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organization and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organization as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.

3. An acceptance or declaration of objection under this article shall be made by the deposit of an instrument with the Organization. The Organization shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organization, the Secretarial functions herein attributed to it shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

Article XVI

This Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

Article XVII

This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Article XVIII

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Article XIX

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.
2. For each Contracting Party ratifying or acceding to the Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such Party of its instrument of ratification or accession.

Article XX

The depositaries shall inform Contracting Parties:

(a) of signatures to this Convention and of the deposit of instruments of ratification, accession or withdrawal, in accordance with articles XVI, XVII, XVIII and XXI, and

(b) of the date on which this Convention will enter into force, in accordance with article XIX.

Article XXI

Any Contracting Party may withdraw from this Convention by giving six months' notice in writing to a depositary, which shall promptly inform all Parties of such notice.

Article XXII

The original of this Convention of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.*

DONE in quadruplicate at London, Mexico City, Moscow and Washington, this twenty-ninth day of December, 1972.

23.CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Amended at Bonn, on 22 June 1979

The Contracting States,

RECOGNIZING that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

CONSIOUS of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

RECOGNIZING that peoples and States are and should be the best protectors of their own wild fauna and flora;

RECOGNIZING, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

CONVINCED of the urgency of taking appropriate measures to this end;

HAVE AGREED as follows:

Article I
Definitions

For the purpose of the present Convention, unless the context otherwise requires:

(a) "Species" means any species, subspecies, or geographically separate population thereof;

(b) "Specimen" means:
  (i) any animal or plant, whether alive or dead;
  (ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and
  (iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;

(c) "Trade" means export, re-export, import and introduction from the sea;

(d) "Re-export" means export of any specimen that has previously been imported;

(e) "Introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;

(f) "Scientific Authority" means a national scientific authority designated in accordance with Article IX;

(g) "Management Authority" means a national management authority designated in accordance with Article IX;

(h) "Party" means a State for which the present Convention has entered into force.

Article II
Fundamental Principles

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:
(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

Article III
Regulation of Trade in Specimens of Species Included in Appendix I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and

presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;

(b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

(b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

Article IV
Regulation of Trade in Specimens of Species Included in Appendix II

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.

5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and

(b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

Article V
Regulation of Trade in Specimens of Species Included in Appendix III

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

Article VI
Permits and Certificates

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.

2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.

3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.

5. A separate permit or certificate shall be required for each consignment of specimens.

6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

Article VII
Exemptions and Other Special Provisions Relating to Trade

1. The provisions of Articles III, IV and V shall not

apply to the transit or transhipment of specimens through or in the territory of a Party while the specimens remain in Customs control.

2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.

3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:

(a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or

(b) in the case of specimens of species included in Appendix II:

(i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

(ii) they are being imported into the owner's State of usual residence; and

(iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens; unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.

5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V.

6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.

7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:

(a) the exporter or importer registers full details of such specimens with that Management Authority;

(b) the specimens are in either of the categories specified in paragraph 2 or 5 of this Article; and (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

Article VIII
Measures to Be Taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

(a) to penalize trade in, or possession of, such specimens, or both; and

(b) to provide for the confiscation or return to the State of export of such specimens.

2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.

3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:

(a) the specimen shall be entrusted to a Management Authority of the State of confiscation;

(b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and

(c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under sub-paragraph (b) of this paragraph, including the choice of a rescue centre or other place.

5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.

6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:
(a) the names and addresses of exporters and importers; and

(b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.

7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:
(a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and

(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

Article IX
Management and Scientific Authorities

1. Each Party shall designate for the purposes of the present Convention:
(a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and

(b) one or more Scientific Authorities.

2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.

3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.

4. Any Management Authority referred to in paragraph 2 of this Article shall, if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

Article X
Trade with States not Party to the Convention

Where export or re-export is to, or import is from, a State not a Party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

Article XI
Conference of the Parties

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.

2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.

3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:
(a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;

(b) consider and adopt amendments to Appendices I and II in accordance with Article XV;

(c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;

(d) receive and consider any reports presented by the Secretariat or by any Party; and

(e) where appropriate, make recommendations for improving the effectiveness of the present Convention.

4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.

5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has

informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

Article XII
The Secretariat

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.

2. The functions of the Secretariat shall be:

(a) to arrange for and service meetings of the Parties;

(b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;

(c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;

(d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;

(e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;

(f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;

(g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;

(h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;

(i) to perform any other function as may be entrusted to it by the Parties.

Article XIII
International Measures

1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.

2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

Article XIV
Effect on Domestic Legislation and International Conventions

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:

(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or

(b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.

2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.

3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international

agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.

4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.

5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article XV
Amendments to Appendices I and II

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.

(b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

(c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

(b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult inter-governmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring co-ordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.

(c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.

(d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under sub-paragraph (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.

(e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible.

(f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of sub-paragraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

(g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h) , (i) and (j) of this paragraph.

(h) The Secretariat shall notify the Parties that notification of objection has been received.

(i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

(j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.

(k) The Secretariat shall notify all Parties of the result of the vote.

(l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned.

Article XVI
Appendix III and Amendments thereto

1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of sub-paragraph (b) of Article I.

2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.

3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any interpretations as they are adopted.

Article XVII
Amendment of the Convention

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.

3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

Article XVIII
Resolution of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute can not be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

Article XIX
Signature

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Berne until 31st December 1974.

Article XX
Ratification, Acceptance, Approval

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification,

acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

Article XXI
Accession

The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

Article XXII
Entry into Force

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.

2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article XXIII
Reservations

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.

2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:
(a) any species included in Appendix I, II or III; or
(b) any parts or derivatives specified in relation to a species included in Appendix III.

3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

Article XXIV
Denunciation

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

Article XXV
Depositary

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.

2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.

3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

DONE at Washington this third day of March, One Thousand Nine Hundred and Seventy-three.

CITES Appendices I, II and III

valid from 16 October 2003

Interpretation

1.Species included in these Appendices are referred to:

a) by the name of the species; or

b) as being all of the species included in a higher taxon or designated part thereof.

2.The abbreviation “spp.” is used to denote all species of a higher taxon.

3.Other references to taxa higher than species are for the purposes of information or classification only. The common names included after the scientific names of families are for reference only. They are intended to indicate the species within the family concerned that are included in the Appendices. In most cases this is not all of the species within the family.

4.The following abbreviations are used for plant taxa below the level of species:

a) “ssp.” is used to denote subspecies; and

b) “var(s).” is used to denote variety (varieties).

5. As none of the species or higher taxa of FLORA included in Appendix I is annotated to the effect that its hybrids shall be treated in accordance with the provisions of Article III of the Convention, this means that artificially propagated hybrids produced from one or more of these species or taxa may be traded with a certificate of artificial propagation, and that seeds and

pollen (including pollinia), cut flowers, seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers of these hybrids are not subject to the provisions of the Convention.

6. The names of the countries in parentheses placed against the names of species in Appendix III are those of the Parties submitting these species for inclusion in this Appendix.

7. In accordance with Article I, paragraph (b), sub-paragraph (iii), of the Convention, the symbol (#) followed by a number placed against the name of a species or higher taxon included in Appendix II or III designates parts or derivatives which are specified in relation thereto for the purposes of the Convention as follows:

#1 Designates all parts and derivatives, except:
- a) seeds, spores and pollen (including pollinia);
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
- c) cut flowers of artificially propagated plants.

#2 Designates all parts and derivatives, except:
- a) seeds and pollen;
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) cut flowers of artificially propagated plants; and
- d) chemical derivatives and finished pharmaceutical products.

#3 Designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas and confectionery.

#4 Designates all parts and derivatives, except:
a)seeds, except those from Mexican cacti originating in Mexico, and pollen;
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) cut flowers of artificially propagated plants;
- d) fruits and parts and derivatives thereof of naturalized or artificially propagated plants; and
- e) separate stem joints (pads) and parts and derivatives thereof of naturalized or artificially propagated plants of the genus *Opuntia* subgenus *Opuntia*.

#5 Designates logs, sawn wood and veneer sheets.

#6 Designates logs, sawn wood, veneer sheets and plywood.

#7 Designates logs, wood-chips and unprocessed broken material.

#8 Designates all parts and derivatives, except:
- a) seeds and pollen (including pollinia);
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) cut flowers of artificially propagated plants; and
- d) fruits and parts and derivatives thereof of artificially propagated plants of the genus *Vanilla*.

Appendices		
I	II	III
Axis kuhlii		
Axis porcinus annamiticus		
Blastocerus dichotomus		
Cervus duvaucelii		
	Cervus elaphus bactrianus	
		Cervus elaphus barbarus (Tunisia)
Cervus elaphus hanglu		
Cervus eldii		
Dama mesopotamica		
***Hippocamelus* spp.**		
		Mazama americana cerasina (Guatemala)
Megamuntiacus vuquanghensis		
Muntiacus crinifrons		
		Odocoileus virginianus mayensis (Guatemala)
Ozotoceros bezoarticus		
	Pudu mephistophiles	
Pudu puda		
Antilocapridae Pronghorn		
Antilocapra americana (Only the population of Mexico; no other population is included in the Appendices)		
Bovidae Antelopes, cattle, duikers, gazelles, goats, sheep, etc.		
Addax nasomaculatus		
	Ammotragus lervia	
		Antilope cervicapra (Nepal)
	Bison bison athabascae	
Bos gaurus (Excludes the domesticated form, which is referenced as *Bos frontalis*, and is not subject to the provisions of the Convention)		
Bos mutus (Excludes the domesticated form, which is referenced as *Bos grunniens*, and is not subject to the provisions of the Convention)		
Bos sauveli		
		Bubalus arnee (Nepal) (Excludes the domesticated form, which is referenced as *Bubalus bubalis*)
Bubalus depressicornis		
Bubalus mindorensis		
Bubalus quarlesi		
	Budorcas taxicolor	
Capra falconeri		
	Cephalophus dorsalis	
Cephalophus jentinki		
	Cephalophus monticola	
	Cephalophus ogilbyi	
	Cephalophus silvicultor	
	Cephalophus zebra	
		Damaliscus lunatus (Ghana)
	Damaliscus pygargus pygargus	
		Gazella cuvieri (Tunisia)
Gazella dama		

Appendices		
I	**II**	**III**
F A U N A (ANIMALS)		
P H Y L U M C H O R D A T A		
CLASS MAMMALIA (MAMMALS)		
MONOTREMATA		
Tachyglossidae Echidnas, spiny anteaters		
	***Zaglossus* spp.**	
DASYUROMORPHIA		
Dasyuridae Dunnarts		
Sminthopsis longicaudata ***Sminthopsis psammophila***		
Thylacinidae Tasmanian wolf, thylacine		
Thylacinus cynocephalus (possibly extinct)		
PERAMELEMORPHIA		
Peramelidae Bandicoots		
Chaeropus ecaudatus (possibly extinct) ***Macrotis lagotis*** ***Macrotis leucura*** ***Perameles bougainville***		
DIPROTODONTIA		
Phalangeridae Cuscuses		
	Phalanger orientalis ***Spilocuscus maculatus***	
Vombatidae Northern hairy-nosed wombat		
Lasiorhinus krefftii		
Macropodidae Kangaroos, wallabies		
Lagorchestes hirsutus ***Lagostrophus fasciatus*** ***Onychogalea fraenata*** ***Onychogalea lunata***	***Dendrolagus inustus*** ***Dendrolagus ursinus***	
Potoroidae Rat-kangaroos		
Bettongia* spp.** ***Caloprymnus campestris (possibly extinct)		
SCANDENTIA		
Tupaiidae Tree shrews		
	Tupaiidae spp.	
CHIROPTERA		
Phyllostomidae Broad-nosed bat		
		Platyrrhinus lineatus (Uruguay)
Pteropodidae Fruit bats, flying foxes		
Acerodon jubatus	***Acerodon* spp.** (Except the species included in Appendix I)	

Appendices		
I	II	III
Acerodon lucifer (possibly extinct)		
	***Pteropus* spp.** (Except the species included in Appendix I)	
Pteropus insularis		
Pteropus mariannus		
Pteropus molossinus		
Pteropus phaeocephalus		
Pteropus pilosus		
Pteropus samoensis		
Pteropus tonganus		
PRIMATES Apes, monkeys		
	PRIMATES spp. (Except the species included in Appendix I)	
Lemuridae Large lemurs		
Lemuridae spp.		
Megaladapidae Sportive lemurs		
Megaladapidae spp. (possibly extinct)		
Cheirogaleidae Dwarf lemurs		
Cheirogaleidae spp.		
Indridae Avahi, indris, sifakas, woolly lemurs		
Indridae spp.		
Daubentoniidae Aye-aye		
Daubentonia madagascariensis		
Callitrichidae Marmosets, tamarins		
Callimico goeldii		
Callithrix aurita		
Callithrix flaviceps		
***Leontopithecus* spp.**		
Saguinus bicolor		
Saguinus geoffroyi		
Saguinus leucopus		
Saguinus oedipus		
Cebidae New World monkeys		
Alouatta coibensis		
Alouatta palliata		
Alouatta pigra		
Ateles geoffroyi frontatus		
Ateles geoffroyi panamensis		
Brachyteles arachnoides		
***Cacajao* spp.**		
Chiropotes albinasus		
Lagothrix flavicauda		
Saimiri oerstedii		
Cercopithecidae Old World monkeys		
Cercocebus galeritus galeritus		
Cercopithecus diana		
Macaca silenus		

Appendices		
I	II	III
Mandrillus leucophaeus ***Mandrillus sphinx*** ***Nasalis concolor*** ***Nasalis larvatus*** ***Presbytis potenziani*** ***Procolobus pennantii kirkii*** ***Procolobus rufomitratus*** ***Pygathrix* spp.** ***Semnopithecus entellus*** ***Trachypithecus geei*** ***Trachypithecus pileatus***		
Hylobatidae Gibbons		
Hylobatidae spp.		
Hominidae Chimpanzees, gorilla, orang-utan		
Gorilla gorilla ***Pan* spp.** ***Pongo pygmaeus***		
XENARTHRA		
Myrmecophagidae American anteaters		
	Myrmecophaga tridactyla	***Tamandua mexicana*** (Guatemala)
Bradypodidae Three-toed sloth		
	Bradypus variegatus	
Megalonychidae Two-toed sloth		
		Choloepus hoffmanni (Costa Rica)
Dasypodidae Armadillos		
Priodontes maximus	***Chaetophractus nationi*** (A zero annual export quota has been established. All specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly)	***Cabassous centralis*** (Costa Rica) ***Cabassous tatouay*** (Uruguay)
PHOLIDOTA		
Manidae Pangolins		
	***Manis* spp.** (A zero annual export quota has been established for *Manis crassicaudata*, *M. javanica* and *M. pentadactyla* for specimens removed from the wild and traded for primarily commercial purposes)	
LAGOMORPHA		
Leporidae Hispid hare, volcano rabbit		
Caprolagus hispidus ***Romerolagus diazi***		
RODENTIA		
Sciuridae Ground squirrels, tree squirrels		
Cynomys mexicanus		***Epixerus ebii*** (Ghana)

Appendices		
I	II	III
Anomaluridae African flying squirrels		
		Anomalurus beecrofti (Ghana) ***Anomalurus derbianus*** (Ghana) ***Anomalurus pelii*** (Ghana) ***Idiurus macrotis*** (Ghana)
Muridae Mice, rats		
Leporillus conditor ***Pseudomys praeconis*** ***Xeromys myoides*** ***Zyzomys pedunculatus***		
Hystricidae Crested porcupine		
		Hystrix cristata (Ghana)
Erethizontidae New World porcupines		
		Sphiggurus mexicanus (Honduras) ***Sphiggurus spinosus*** (Uruguay)
Agoutidae Paca		
		Agouti paca (Honduras)
Dasyproctidae Agouti		
		Dasyprocta punctata (Honduras)
Chinchillidae Chinchillas		
Chinchilla **spp.** (Specimens of the domesticated form are not subject to the provisions of the Convention)		
CETACEA Dolphins, porpoises, whales		
	CETACEA spp. (Except the species included in Appendix I. A zero annual export quota has been established for live specimens from the Black Sea population of *Tursiops truncatus* removed from the wild and traded for primarily commercial purposes)	
Platanistidae River dolphins		
Lipotes vexillifer ***Platanista*** **spp.**		
Ziphiidae Beaked whales, bottle-nosed whales		
Berardius **spp.** ***Hyperoodon*** **spp.**		
Physeteridae Sperm whales		
Physeter catodon		
Delphinidae Marine dolphins		
Sotalia **spp.** ***Sousa*** **spp.**		
Phocoenidae Porpoises		
Neophocaena phocaenoides ***Phocoena sinus***		
Eschrichtiidae Grey whale		
Eschrichtius robustus		

Appendices		
I	II	III
Balaenopteridae Humpback whale, rorquals		
Balaenoptera acutorostrata (Except the population of West Greenland, which is included in Appendix II) ***Balaenoptera bonaerensis*** ***Balaenoptera borealis*** ***Balaenoptera edeni*** ***Balaenoptera musculus*** ***Balaenoptera physalus*** ***Megaptera novaeangliae***		
Balaenidae Bowhead whale, right whales		
Balaena mysticetus ***Eubalaena* spp.**		
Neobalaenidae Pygmy right whale		
Caperea marginata		
CARNIVORA		
Canidae Bush dog, foxes, wolves		
Canis lupus (Only the populations of Bhutan, India, Nepal and Pakistan; all other populations are included in Appendix II)	***Canis lupus*** (Except the populations of Bhutan, India, Nepal and Pakistan, which are included in Appendix I) ***Cerdocyon thous*** ***Chrysocyon brachyurus*** ***Cuon alpinus*** ***Pseudalopex culpaeus*** ***Pseudalopex griseus*** ***Pseudalopex gymnocercus***	***Canis aureus*** (India)
Speothos venaticus		
	Vulpes cana	***Vulpes bengalensis*** (India)
		Vulpes vulpes griffithi (India) ***Vulpes vulpes montana*** (India) ***Vulpes vulpes pusilla*** (India)
	Vulpes zerda	
Ursidae Bears, pandas		
Ailuropoda melanoleuca ***Ailurus fulgens*** ***Helarctos malayanus*** ***Melursus ursinus*** ***Tremarctos ornatus***	**Ursidae spp.** (Except the species included in Appendix I)	

Appendices		
I	II	III
Ursus arctos (Only the populations of Bhutan, China, Mexico and Mongolia; all other populations are included in Appendix II) ***Ursus arctos isabellinus*** ***Ursus thibetanus***		
Procyonidae Coatis, kinkajou, olingos		
		Bassaricyon gabbii (Costa Rica) ***Bassariscus sumichrasti*** (Costa Rica) ***Nasua narica*** (Honduras) ***Nasua nasua solitaria*** (Uruguay) ***Potos flavus*** (Honduras)
Mustelidae Badgers, martens, weasels, etc.		
Lutrinae Otters		
Aonyx congicus (Only the populations of Cameroon and Nigeria; all other populations are included in Appendix II) ***Enhydra lutris nereis*** ***Lontra felina*** ***Lontra longicaudis*** ***Lontra provocax*** ***Lutra lutra*** ***Pteronura brasiliensis***	**Lutrinae spp.** (Except the species included in Appendix I)	
Mellivorinae Honey badger		
		Mellivora capensis (Botswana, Ghana)
Mephitinae Hog-nosed skunk		
	Conepatus humboldtii	
Mustelinae Grisons, martens, tayra, weasels		
Mustela nigripes		***Eira barbara*** (Honduras) ***Galictis vittata*** (Costa Rica) ***Martes flavigula*** (India) ***Martes foina intermedia*** (India) ***Martes gwatkinsii*** (India) ***Mustela altaica*** (India) ***Mustela erminea ferghanae*** (India) ***Mustela kathiah*** (India) ***Mustela sibirica*** (India)
Viverridae Binturong, civets, falanouc, fossa, linsangs, otter-civet, palm civets		
	Cryptoprocta ferox ***Cynogale bennettii*** ***Eupleres goudotii*** ***Fossa fossana***	***Arctictis binturong*** (India) ***Civettictis civetta*** (Botswana)

Appendices		
I	II	III
	Hemigalus derbyanus	***Paguma larvata*** (India) ***Paradoxurus hermaphroditus*** (India) ***Paradoxurus jerdoni*** (India)
Prionodon pardicolor	***Prionodon linsang***	***Viverra civettina*** (India) ***Viverra zibetha*** (India) ***Viverricula indica*** (India)
Herpestidae Mongooses		
		Herpestes brachyurus fuscus (India) ***Herpestes edwardsii*** (India) ***Herpestes javanicus auropunctatus*** (India) ***Herpestes smithii*** (India) ***Herpestes urva*** (India) ***Herpestes vitticollis*** (India)
Hyaenidae Aardwolf		
		Proteles cristatus (Botswana)
Felidae Cats		
Acinonyx jubatus (Annual export quotas for live specimens and hunting trophies are granted as follows: Botswana: 5; Namibia: 150; Zimbabwe: 50. The trade in such specimens is subject to the provisions of Article III of the Convention) ***Caracal caracal*** (Only the population of Asia; all other populations are included in Appendix II) ***Catopuma temminckii*** ***Felis nigripes*** ***Herpailurus yaguarondi*** (Only the populations of Central and North America; all other populations are included in Appendix II) ***Leopardus pardalis*** ***Leopardus tigrinus*** ***Leopardus wiedii*** ***Lynx pardinus*** ***Neofelis nebulosa*** ***Oncifelis geoffroyi*** ***Oreailurus jacobita***	**Felidae spp.** (Except the species included in Appendix I. Specimens of the domesticated form are not subject to the provisions of the Convention)	

Appendices		
I	II	III
Panthera leo persica ***Panthera onca*** ***Panthera pardus*** ***Panthera tigris*** ***Pardofelis marmorata*** ***Prionailurus bengalensis bengalensis*** (Only the populations of Bangladesh, India and Thailand; all other populations are included in Appendix II) ***Prionailurus planiceps*** ***Prionailurus rubiginosus*** (Only the population of India; all other populations are included in Appendix II) ***Puma concolor coryi*** ***Puma concolor costaricensis*** ***Puma concolor couguar*** ***Uncia uncia***		
Otariidae Fur seals, sealions		
Arctocephalus townsendi	***Arctocephalus* spp.** (Except the species included in Appendix I)	
Odobenidae Walrus		
		Odobenus rosmarus (Canada)
Phocidae Seals		
***Monachus* spp.**	***Mirounga leonina***	
PROBOSCIDEA		
Elephantidae Elephants		
Elephas maximus ***Loxodonta africana*** (Except the populations of Botswana, Namibia, South Africa and Zimbabwe, which are included in Appendix II)		

Appendices		
I	II	III
	Loxodonta africana (Only the populations of **Botswana**[1], **Namibia**[1], **South Africa**[1] and **Zimbabwe**[2]; all other populations are included in Appendix I)	
SIRENIA		
Dugongidae Dugong		
Dugong dugon		
Trichechidae Manatees		
Trichechus inunguis ***Trichechus manatus***	***Trichechus senegalensis***	
PERISSODACTYLA		
Equidae Horses, wild asses, zebras		
Equus africanus (Excludes the domesticated form, which is referenced as *Equus asinus*, and is not subject to the provisions of the Convention) ***Equus grevyi***		

[1]Populations of Botswana, Namibia and South Africa (listed in Appendix II):

For the exclusive purpose of allowing: 1) trade in hunting trophies for non-commercial purposes; 2) trade in live animals for in situ conservation programmes; 3) trade in hides; 4) trade in leather goods for non-commercial purposes; 5) trade in registered raw ivory (for Botswana and Namibia, whole tusks and pieces; for South Africa, whole tusks and cut pieces of ivory that are both 20 cm or more in length and one kilogramme or more in weight) subject to the following: i) only registered government-owned stocks, originating in the State (excluding seized ivory and ivory of unknown origin) and, in the case of South Africa, only ivory originating from the Kruger National Park); ii) only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev. CoP12) concerning domestic manufacturing and trade; iii) not before May 2004, and in any event not before the Secretariat has verified the prospective importing countries, and the MIKE programme has reported to the Secretariat on the baseline information (e.g. elephant population numbers, incidence of illegal killing); iv) a maximum of 20,000 kg (Botswana), 10,000 kg (Namibia) and 30,000 kg (South Africa) of ivory may be traded, and despatched in a single shipment under strict supervision of the Secretariat; v) the proceeds of the trade are used exclusively for elephant conservation and community conservation and development programmes within or adjacent to the elephant range; vi) only after the Standing Committee has agreed that the above conditions have been met. On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to cease partially or completely in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

[2]Population of Zimbabwe (listed in Appendix II):

For the exclusive purpose of allowing: 1) export of hunting trophies for non-commercial purposes; 2) export of live animals to appropriate and acceptable destinations; 3) export of hides; 4) export of leather goods and ivory carvings for non-commercial purposes. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly. To ensure that where a) destinations for live animals are to be "appropriate and acceptable" and/or b) the purpose of the import is to be "non-commercial", export permits and re-export certificates may be issued only after the issuing Management Authority has received, from the Management Authority of the State of import, a certification to the effect that: in case a), in analogy to Article III, paragraph 3(b) of the Convention, the holding facility has been reviewed by the competent Scientific Authority, and the proposed recipient has been found to be suitably equipped to house and care for the animals; and/or in case b), in analogy to Article III, paragraph 3(c), the Management Authority is satisfied that the specimens will not be used for primarily commercial purposes.

Appendices		
I	II	III
	Equus hemionus (Except the subspecies included in Appendix I)	
Equus hemionus hemionus	***Equus kiang***	
	Equus onager (Except the subspecies included in Appendix I)	
Equus onager khur		
Equus przewalskii		
	Equus zebra hartmannae	
Equus zebra zebra		
Tapiridae Tapirs		
Tapiridae spp. (Except the species included in Appendix II)		
	Tapirus terrestris	
Rhinocerotidae Rhinoceroses		
Rhinocerotidae spp. (Except the subspecies included in Appendix II)		
	Ceratotherium simum simum (Only the population of South Africa; all other populations are included in Appendix I. For the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and hunting trophies. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly)	
ARTIODACTYLA		
Tragulidae Mouse-deer		
		Hyemoschus aquaticus (Ghana)
Suidae Babirusa, pygmy hog		
Babyrousa babyrussa		
Sus salvanius		
Tayassuidae Peccaries		
	Tayassuidae spp. (Except the species included in Appendix I and the populations of *Pecari tajacu* of Mexico and the United States of America, which are not included in the Appendices)	
Catagonus wagneri		
Hippopotamidae Hippopotamuses		
	Hexaprotodon liberiensis	
	Hippopotamus amphibius	

Appendices		
I	II	III
Camelidae Guanaco, vicuna		
Vicugna vicugna (Except the populations of: Argentina [the populations of the Provinces of Jujuy and Catamarca and the semi-captive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja and San Juan]; Bolivia [the whole population]; Chile [population of the Primera Región]; and Peru [the whole population]; which are included in Appendix II)	***Lama guanicoe*** ***Vicugna vicugna*** (Only the populations of **Argentina**[3] [the populations of the Provinces of Jujuy and Catamarca and the semi-captive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja and San Juan]; **Bolivia**[4] [the whole population]; **Chile**[5] [population of the Primera Región]; **Peru**[6] [the whole population]; all other populations are included in Appendix I)	

[3]Population of Argentina (listed in Appendix II):

For the exclusive purpose of allowing international trade in wool sheared from live vicuñas, in cloth, and in derived manufactured products and other handicraft artefacts. The reverse side of the cloth must bear the logotype adopted by the range States of the species, which are signatories to the *Convenio para la Conservación y Manejo de la Vicuña*, and the selvages the words 'VICUÑA-ARGENTINA'. Other products must bear a label including the logotype and the designation 'VICUÑA-ARGENTINA-ARTESANÍA'. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

[4]Population of Bolivia (listed in Appendix II):

For the exclusive purpose of allowing international trade in: a) wool and products derived therefrom sheared from live animals of the populations of the Conservation Units of Mauri-Desaguadero, Ulla Ulla and Lípez-Chichas; and b) products made from wool sheared from live animals of the rest of the population of Bolivia. The reverse side of the cloth must bear the logotype adopted by the range States of the species, which are signatories to the *Convenio para la Conservación y Manejo de la Vicuña*, and the selvages the words 'VICUÑA-BOLIVIA'. Other products must bear a label including the logotype and the designation 'VICUÑA-BOLIVIA-ARTESANÍA'. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

[5]Population of Chile (listed in Appendix II):

For the exclusive purpose of allowing international trade in wool sheared from live vicuñas, and in cloth and items made thereof, including luxury handicrafts and knitted articles. The reverse side of the cloth must bear the logotype adopted by the range States of the species, which are signatories to the *Convenio para la Conservación y Manejo de la Vicuña*, and the selvages the words 'VICUÑA-CHILE'. Other products must bear a label including the logotype and the designation 'VICUÑA-CHILE-ARTESANÍA'. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

[6]Population of Peru (listed in Appendix II):

For the exclusive purpose of allowing international trade in wool sheared from live vicuñas and in the stock extant at the time of the ninth meeting of the Conference of the Parties (November 1994) of 3249 kg of wool, and in cloth and items made thereof, including luxury handicrafts and knitted articles. The reverse side of the cloth must bear the logotype adopted by the range States of the species, which are signatories to the *Convenio para la Conservación y Manejo de la Vicuña*, and the selvages the words 'VICUÑA-PERÚ'. Other products must bear a label including the logotype and the designation

Appendices		
I	**II**	**III**
Moschidae Musk deer		
***Moschus* spp.** (Only the populations of Afghanistan, Bhutan, India, Myanmar, Nepal and Pakistan; all other populations are included in Appendix II)	***Moschus* spp.** (Except the populations of Afghanistan, Bhutan, India, Myanmar, Nepal and Pakistan, which are included in Appendix I)	
Cervidae Deer, guemals, muntjacs, pudus		
Axis calamianensis		
Axis kuhlii		
Axis porcinus annamiticus		
Blastocerus dichotomus		
Cervus duvaucelii		
	Cervus elaphus bactrianus	
		Cervus elaphus barbarus (Tunisia)
Cervus elaphus hanglu		
Cervus eldii		
Dama mesopotamica		
***Hippocamelus* spp.**		
		Mazama americana cerasina (Guatemala)
Megamuntiacus vuquanghensis		
Muntiacus crinifrons		
		Odocoileus virginianus mayensis (Guatemala)
Ozotoceros bezoarticus		
	Pudu mephistophiles	
Pudu puda		
Antilocapridae Pronghorn		
Antilocapra americana (Only the population of Mexico; no other population is included in the Appendices)		
Bovidae Antelopes, cattle, duikers, gazelles, goats, sheep, etc.		
Addax nasomaculatus	***Ammotragus lervia***	
		Antilope cervicapra (Nepal)
	Bison bison athabascae	

logotype and the designation 'VICUÑA-PERÚ-ARTESANÍA'. All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

Appendices		
I	II	III
Bos gaurus (Excludes the domesticated form, which is referenced as *Bos frontalis*, and is not subject to the provisions of the Convention)		
Bos mutus (Excludes the domesticated form, which is referenced as *Bos grunniens*, and is not subject to the provisions of the Convention)		
Bos sauveli		
		Bubalus arnee (Nepal) (Excludes the domesticated form, which is referenced as *Bubalus bubalis*)
Bubalus depressicornis		
Bubalus mindorensis		
Bubalus quarlesi		
	Budorcas taxicolor	
Capra falconeri		
	Cephalophus dorsalis	
Cephalophus jentinki		
	Cephalophus monticola	
	Cephalophus ogilbyi	
	Cephalophus silvicultor	
	Cephalophus zebra	
		Damaliscus lunatus (Ghana)
	Damaliscus pygargus pygargus	
		Gazella cuvieri (Tunisia)
Gazella dama		
		Gazella dorcas (Tunisia)
		Gazella leptoceros (Tunisia)
Hippotragus niger variani		
	Kobus leche	
Naemorhedus baileyi		
Naemorhedus caudatus		
Naemorhedus goral		
Naemorhedus sumatraensis		
Oryx dammah		
Oryx leucoryx		
	Ovis ammon (Except the subspecies included in Appendix I)	
Ovis ammon hodgsonii		
Ovis ammon nigrimontana		
	Ovis canadensis (Only the population of Mexico; no other population is included in the Appendices)	
Ovis orientalis ophion		
	Ovis vignei (Except the subspecies included in Appendix I)	

Appendices I	Appendices II	Appendices III
Ovis vignei vignei ***Pantholops hodgsonii*** ***Pseudoryx nghetinhensis*** ***Rupicapra pyrenaica ornata***	***Saiga tatarica***	***Tetracerus quadricornis*** (Nepal) ***Tragelaphus eurycerus*** (Ghana) ***Tragelaphus spekii*** (Ghana)
CLASS AVES (BIRDS)		
STRUTHIONIFORMES		
Struthionidae Ostrich		
Struthio camelus (Only the populations of Algeria, Burkina Faso, Cameroon, the Central African Republic, Chad, Mali, Mauritania, Morocco, the Niger, Nigeria, Senegal and the Sudan; all other populations are not included in the Appendices)		
RHEIFORMES		
Rheidae Rheas		
Rhea pennata (Except *Rhea pennata pennata* which is included in Appendix II)	***Rhea americana*** ***Rhea pennata pennata***	
TINAMIFORMES		
Tinamidae Tinamou		
Tinamus solitarius		
SPHENISCIFORMES		
Spheniscidae Penguins		
Spheniscus humboldti	***Spheniscus demersus***	
PODICIPEDIFORMES		
Podicipedidae Grebe		
Podilymbus gigas		
PROCELLARIIFORMES		
Diomedeidae Albatross		
Diomedea albatrus		
PELECANIFORMES		
Pelecanidae Pelican		
Pelecanus crispus		
Sulidae Booby		
Papasula abbotti		
Fregatidae Frigatebird		
Fregata andrewsi		

Appendices		
I	II	III
CICONIIFORMES		
Ardeidae Egrets, herons		
		Ardea goliath (Ghana) ***Bubulcus ibis*** (Ghana) ***Casmerodius albus*** (Ghana) ***Egretta garzetta*** (Ghana)
Balaenicipitidae Shoebill, whale-headed stork		
	Balaeniceps rex	
Ciconiidae Storks		
Ciconia boyciana		
	Ciconia nigra	
		Ephippiorhynchus senegalensis (Ghana)
Jabiru mycteria		
		Leptoptilos crumeniferus (Ghana)
Mycteria cinerea		
Threskiornithidae Ibises, spoonbills		
		Bostrychia hagedash (Ghana) ***Bostrychia rara*** (Ghana)
	Eudocimus ruber ***Geronticus calvus***	
Geronticus eremita ***Nipponia nippon***		
	Platalea leucorodia	
		Threskiornis aethiopicus (Ghana)
Phoenicopteridae Flamingos		
	Phoenicopteridae spp.	
ANSERIFORMES		
Anatidae Ducks, geese, swans, etc.		
		Alopochen aegyptiacus (Ghana) ***Anas acuta*** (Ghana)
Anas aucklandica		
	Anas bernieri	
		Anas capensis (Ghana) ***Anas clypeata*** (Ghana) ***Anas crecca*** (Ghana)
	Anas formosa	
Anas laysanensis ***Anas oustaleti***		
		Anas penelope (Ghana) ***Anas querquedula*** (Ghana) ***Aythya nyroca*** (Ghana)
Branta canadensis leucopareia		
	Branta ruficollis	
Branta sandvicensis		
		Cairina moschata (Honduras)
Cairina scutulata		
	Coscoroba coscoroba ***Cygnus melanocorypha*** ***Dendrocygna arborea***	

Appendices		
I	**II**	**III**
		Dendrocygna autumnalis (Honduras) ***Dendrocygna bicolor*** (Ghana, Honduras) ***Dendrocygna viduata*** (Ghana) ***Nettapus auritus*** (Ghana)
	Oxyura leucocephala	
		Plectropterus gambensis (Ghana) ***Pteronetta hartlaubii*** (Ghana)
Rhodonessa caryophyllacea (possibly extinct)		
	Sarkidiornis melanotos	
FALCONIFORMES Eagles, falcons, hawks, vultures		
	FALCONIFORMES spp. (Except the species included in Appendices I and III and the species of the family Cathartidae)	
Cathartidae New World vultures		
Gymnogyps californianus		
		Sarcoramphus papa (Honduras)
Vultur gryphus		
Accipitridae Hawks, eagles		
Aquila adalberti ***Aquila heliaca*** ***Chondrohierax uncinatus wilsonii*** ***Haliaeetus albicilla*** ***Haliaeetus leucocephalus*** ***Harpia harpyja*** ***Pithecophaga jefferyi***		
Falconidae Falcons		
Falco araea ***Falco jugger*** ***Falco newtoni*** (Only the population of Seychelles) ***Falco pelegrinoides*** ***Falco peregrinus*** ***Falco punctatus*** ***Falco rusticolus***		
GALLIFORMES		
Megapodiidae Megapodes, scrubfowl		
Macrocephalon maleo		
Cracidae Chachalacas, currassows, guans		
Crax blumenbachii		***Crax alberti*** (Colombia) ***Crax daubentoni*** (Colombia) ***Crax globulosa*** (Colombia) ***Crax rubra*** (Colombia, Costa Rica, Guatemala, Honduras)
Mitu mitu ***Oreophasis derbianus***		

Appendices		
I	II	III
		Ortalis vetula (Guatemala, Honduras)
		Pauxi pauxi (Colombia)
Penelope albipennis		
		Penelope purpurascens (Honduras)
		Penelopina nigra (Guatemala)
Pipile jacutinga		
Pipile pipile		
Phasianidae Grouse, guineafowl, partridges, pheasants, tragopans		
		Agelastes meleagrides (Ghana)
		Agriocharis ocellata (Guatemala)
		Arborophila charltonii (Malaysia)
		Arborophila orientalis (Malaysia)
	Argusianus argus	
		Caloperdix oculea (Malaysia)
Catreus wallichii		
Colinus virginianus ridgwayi		
Crossoptilon crossoptilon		
Crossoptilon harmani		
Crossoptilon mantchuricum		
	Gallus sonneratii	
	Ithaginis cruentus	
Lophophorus impejanus		
Lophophorus lhuysii		
Lophophorus sclateri		
Lophura edwardsi		
		Lophura erythrophthalma (Malaysia)
		Lophura ignita (Malaysia)
Lophura imperialis		
Lophura swinhoii		
		Melanoperdix nigra (Malaysia)
	Pavo muticus	
	Polyplectron bicalcaratum	
Polyplectron emphanum		
	Polyplectron germaini	
		Polyplectron inopinatum (Malaysia)
	Polyplectron malacense	
	Polyplectron schleiermacheri	
Rheinardia ocellata		
		Rhizothera longirostris (Malaysia)
		Rollulus rouloul (Malaysia)
Syrmaticus ellioti		
Syrmaticus humiae		
Syrmaticus mikado		
Tetraogallus caspius		
Tetraogallus tibetanus		
Tragopan blythii		

Appendices		
I	II	III
Tragopan caboti ***Tragopan melanocephalus*** ***Tympanuchus cupido attwateri***		***Tragopan satyra*** (Nepal)
GRUIFORMES		
Gruidae Cranes		
Grus americana ***Grus canadensis nesiotes*** ***Grus canadensis pulla*** ***Grus japonensis*** ***Grus leucogeranus*** ***Grus monacha*** ***Grus nigricollis*** ***Grus vipio***	**Gruidae spp.** (Except the species included in Appendix I)	
Rallidae Rail		
Gallirallus sylvestris		
Rhynochetidae Kagu		
Rhynochetos jubatus		
Otididae Bustards		
Ardeotis nigriceps ***Chlamydotis undulata*** ***Eupodotis bengalensis***	**Otididae spp.** (Except the species included in Appendix I)	
CHARADRIIFORMES		
Burhinidae Thick-knee		
		Burhinus bistriatus (Guatemala)
Scolopacidae Curlews, greenshanks		
Numenius borealis ***Numenius tenuirostris*** ***Tringa guttifer***		
Laridae Gull		
Larus relictus		
COLUMBIFORMES		
Columbidae Doves, pigeons		
Caloenas nicobarica ***Ducula mindorensis***	 ***Gallicolumba luzonica*** ***Goura* spp.**	***Columba guinea*** (Ghana) ***Columba iriditorques*** (Ghana) ***Columba livia*** (Ghana) ***Columba mayeri*** (Mauritius) ***Columba unicincta*** (Ghana) ***Oena capensis*** (Ghana) ***Streptopelia decipiens*** (Ghana) ***Streptopelia roseogrisea*** (Ghana) ***Streptopelia semitorquata*** (Ghana)

Appendices		
I	II	III
		Streptopelia senegalensis (Ghana) ***Streptopelia turtur*** (Ghana) ***Streptopelia vinacea*** (Ghana) ***Treron calva*** (Ghana) ***Treron waalia*** (Ghana) ***Turtur abyssinicus*** (Ghana) ***Turtur afer*** (Ghana) ***Turtur brehmeri*** (Ghana) ***Turtur tympanistria*** (Ghana)
PSITTACIFORMES		
	PSITTACIFORMES spp. (Except the species included in Appendix I and Appendix III, and excluding *Melopsittacus undulatus* and *Nymphicus hollandicus*, which are not included in the Appendices)	
Psittacidae Amazons, cockatoos, lories, lorikeets, macaws, parakeets, parrots		
Amazona arausiaca ***Amazona barbadensis*** ***Amazona brasiliensis*** ***Amazona guildingii*** ***Amazona imperialis*** ***Amazona leucocephala*** ***Amazona ochrocephala auropalliata*** ***Amazona ochrocephala belizensis*** ***Amazona ochrocephala caribaea*** ***Amazona ochrocephala oratrix*** ***Amazona ochrocephala parvipes*** ***Amazona ochrocephala tresmariae*** ***Amazona pretrei*** ***Amazona rhodocorytha*** ***Amazona tucumana*** ***Amazona versicolor*** ***Amazona vinacea*** ***Amazona viridigenalis*** ***Amazona vittata*** ***Anodorhynchus* spp.** ***Ara ambigua*** ***Ara glaucogularis*** (Often traded under the incorrect designation *Ara caninde*) ***Ara macao*** ***Ara militaris*** ***Ara rubrogenys*** ***Cacatua goffini*** ***Cacatua haematuropygia***		

Appendices		
I	II	III
Cacatua moluccensis ***Cyanopsitta spixii*** ***Cyanoramphus forbesi*** ***Cyanoramphus novaezelandiae*** ***Cyclopsitta diophthalma coxeni*** ***Eos histrio*** ***Eunymphicus cornutus*** ***Geopsittacus occidentalis*** (possibly extinct) ***Guarouba guarouba*** ***Neophema chrysogaster*** ***Ognorhynchus icterotis*** ***Pezoporus wallicus*** ***Pionopsitta pileata*** ***Probosciger aterrimus*** ***Propyrrhura couloni*** ***Propyrrhura maracana*** ***Psephotus chrysopterygius*** ***Psephotus dissimilis*** ***Psephotus pulcherrimus*** (possibly extinct) ***Psittacula echo*** ***Pyrrhura cruentata*** ***Rhynchopsitta* spp.** ***Strigops habroptilus*** ***Vini ultramarina***		***Psittacula krameri*** (Ghana)
CUCULIFORMES		
Musophagidae Turacos		
	Musophaga porphyreolopha ***Tauraco* spp.**	***Corythaeola cristata*** (Ghana) ***Crinifer piscator*** (Ghana) ***Musophaga violacea*** (Ghana)
STRIGIFORMES Owls		
	STRIGIFORMES spp. (Except the species included in Appendix I)	
Tytonidae Barn owl		
Tyto soumagnei		
Strigidae Owls		
Athene blewitti ***Mimizuku gurneyi*** ***Ninox novaeseelandiae undulata*** ***Ninox squamipila natalis***		
APODIFORMES		
Trochilidae Hummingbirds		
Glaucis dohrnii	**Trochilidae spp.** (Except the species included in Appendix I)	

Appendices		
I	II	III
TROGONIFORMES		
Trogonidae Quetzal		
Pharomachrus mocinno		
CORACIIFORMES		
Bucerotidae Hornbills		
Aceros nipalensis	***Aceros* spp.** (Except the species included in Appendix I)	
Aceros subruficollis		
	***Anorrhinus* spp.**	
	***Anthracoceros* spp.**	
Buceros bicornis	***Buceros* spp.** (Except the species included in Appendix I)	
Buceros vigil		
	***Penelopides* spp.**	
PICIFORMES		
Capitonidae Barbet		
		Semnornis ramphastinus (Colombia)
Ramphastidae Toucans		
		Baillonius bailloni (Argentina)
	Pteroglossus aracari	
		Pteroglossus castanotis (Argentina)
	Pteroglossus viridis	
		Ramphastos dicolorus (Argentina)
	Ramphastos sulfuratus	
	Ramphastos toco	
	Ramphastos tucanus	
	Ramphastos vitellinus	
		Selenidera maculirostris (Argentina)
Picidae Woodpeckers		
Campephilus imperialis		
Dryocopus javensis richardsi		
PASSERIFORMES		
Cotingidae Cotingas		
		Cephalopterus ornatus (Colombia)
		Cephalopterus penduliger (Colombia)
Cotinga maculata		
	***Rupicola* spp.**	
Xipholena atropurpurea		
Pittidae Pittas		
	Pitta guajana	
Pitta gurneyi		
Pitta kochi		
	Pitta nympha	

Appendices		
I	II	III
Atrichornithidae Scrub-bird		
Atrichornis clamosus		
Hirundinidae Martin		
Pseudochelidon sirintarae		
Pycnonotidae Bulbul		
	Pycnonotus zeylanicus	
Muscicapidae Old World flycatchers		
Dasyornis broadbenti litoralis (possibly extinct) ***Dasyornis longirostris*** ***Picathartes gymnocephalus*** ***Picathartes oreas***	***Cyornis ruckii*** ***Garrulax canorus*** ***Leiothrix argentauris*** ***Leiothrix lutea*** ***Liocichla omeiensis***	***Bebrornis rodericanus*** (Mauritius) ***Terpsiphone bourbonnensis*** (Mauritius)
Zosteropidae White-eye		
Zosterops albogularis		
Meliphagidae Honeyeater		
Lichenostomus melanops cassidix		
Emberizidae Cardinals, tanagers		
	Gubernatrix cristata ***Paroaria capitata*** ***Paroaria coronata*** ***Tangara fastuosa***	
Icteridae Blackbird		
Agelaius flavus		
Fringillidae Finches		
Carduelis cucullata	***Carduelis yarrellii***	***Serinus canicapillus*** (Ghana) ***Serinus leucopygius*** (Ghana) ***Serinus mozambicus*** (Ghana)
Estrildidae Mannikins, waxbills		
	Amandava formosa	***Amadina fasciata*** (Ghana) ***Amandava subflava*** (Ghana) ***Estrilda astrild*** (Ghana) ***Estrilda caerulescens*** (Ghana) ***Estrilda melpoda*** (Ghana) ***Estrilda troglodytes*** (Ghana) ***Lagonosticta rara*** (Ghana) ***Lagonosticta rubricata*** (Ghana) ***Lagonosticta rufopicta*** (Ghana) ***Lagonosticta senegala*** (Ghana) ***Lagonosticta vinacea*** (Ghana)

Appendices		
I	II	III
		Lonchura bicolor (Ghana) ***Lonchura cantans*** (Ghana) ***Lonchura cucullata*** (Ghana) ***Lonchura fringilloides*** (Ghana) ***Mandingoa nitidula*** (Ghana) ***Nesocharis capistrata*** (Ghana) ***Nigrita bicolor*** (Ghana) ***Nigrita canicapilla*** (Ghana) ***Nigrita fusconota*** (Ghana) ***Nigrita luteifrons*** (Ghana) ***Ortygospiza atricollis*** (Ghana)
	Padda oryzivora	
		Parmoptila rubrifrons (Ghana) ***Pholidornis rushiae*** (Ghana)
	Poephila cincta cincta	
		Pyrenestes ostrinus (Ghana) ***Pytilia hypogrammica*** (Ghana) ***Pytilia phoenicoptera*** (Ghana) ***Spermophaga haematina*** (Ghana) ***Uraeginthus bengalus*** (Ghana)
Ploceidae Weavers, whydahs		
		Amblyospiza albifrons (Ghana) ***Anaplectes rubriceps*** (Ghana) ***Anomalospiza imberbis*** (Ghana) ***Bubalornis albirostris*** (Ghana) ***Euplectes afer*** (Ghana) ***Euplectes ardens*** (Ghana) ***Euplectes franciscanus*** (Ghana) ***Euplectes hordeaceus*** (Ghana) ***Euplectes macrourus*** (Ghana) ***Malimbus cassini*** (Ghana) ***Malimbus malimbicus*** (Ghana) ***Malimbus nitens*** (Ghana) ***Malimbus rubricollis*** (Ghana) ***Malimbus scutatus*** (Ghana) ***Pachyphantes superciliosus*** (Ghana) ***Passer griseus*** (Ghana) ***Petronia dentata*** (Ghana) ***Plocepasser superciliosus*** (Ghana) ***Ploceus albinucha*** (Ghana) ***Ploceus aurantius*** (Ghana) ***Ploceus cucullatus*** (Ghana) ***Ploceus heuglini*** (Ghana) ***Ploceus luteolus*** (Ghana) ***Ploceus melanocephalus*** (Ghana) ***Ploceus nigerrimus*** (Ghana) ***Ploceus nigricollis*** (Ghana) ***Ploceus pelzelni*** (Ghana) ***Ploceus preussi*** (Ghana)

Appendices		
I	II	III
		Ploceus tricolor (Ghana) ***Ploceus vitellinus*** (Ghana) ***Quelea erythrops*** (Ghana) ***Sporopipes frontalis*** (Ghana) ***Vidua chalybeata*** (Ghana) ***Vidua interjecta*** (Ghana) ***Vidua larvaticola*** (Ghana) ***Vidua macroura*** (Ghana) ***Vidua orientalis*** (Ghana) ***Vidua raricola*** (Ghana) ***Vidua togoensis*** (Ghana) ***Vidua wilsoni*** (Ghana)
Sturnidae Mynahs (Starlings)		
Leucopsar rothschildi	***Gracula religiosa***	
Paradisaeidae Birds of paradise		
	Paradisaeidae spp.	
CLASS REPTILIA (REPTILES)		
TESTUDINATA		
Dermatemydidae Central American river turtle		
	Dermatemys mawii	
Platysternidae Big-headed turtle		
	Platysternon megacephalum	
Emydidae Box turtles, freshwater turtles		
Batagur baska ***Clemmys muhlenbergi*** ***Geoclemys hamiltonii*** ***Kachuga tecta*** ***Melanochelys tricarinata*** ***Morenia ocellata*** ***Terrapene coahuila***	***Annamemys annamensis*** ***Callagur borneoensis*** ***Clemmys insculpta*** ***Cuora* spp.** ***Heosemys depressa*** ***Heosemys grandis*** ***Heosemys leytensis*** ***Heosemys spinosa*** ***Hieremys annandalii*** ***Kachuga* spp.** (Except the species included in Appendix I) ***Leucocephalon yuwonoi*** ***Mauremys mutica*** ***Orlitia borneensis*** ***Pyxidea mouhotii*** ***Siebenrockiella crassicollis*** ***Terrapene* spp.** (Except the species included in Appendix I)	

Appendices		
I	**II**	**III**
Testudinidae Tortoises		
Geochelone nigra ***Geochelone radiata*** ***Geochelone yniphora*** ***Gopherus flavomarginatus*** ***Psammobates geometricus*** ***Pyxis planicauda*** ***Testudo kleinmanni*** ***Testudo werneri***	**Testudinidae spp.** (Except the species included in Appendix I. A zero annual export quota has been established for *Geochelone sulcata* for specimens removed from the wild and traded for primarily commercial purposes)	
Cheloniidae Marine turtles		
Cheloniidae spp.		
Dermochelyidae Leatherback turtle		
Dermochelys coriacea		
Trionychidae Softshell turtles, terrapins		
Apalone ater ***Aspideretes gangeticus*** ***Aspideretes hurum*** ***Aspideretes nigricans***	***Chitra* spp.** ***Lissemys punctata*** ***Pelochelys* spp.**	***Trionyx triunguis*** (Ghana)
Pelomedusidae Afro-American side-necked turtles		
	Erymnochelys madagascariensis ***Peltocephalus dumeriliana*** ***Podocnemis* spp.**	***Pelomedusa subrufa*** (Ghana) ***Pelusios adansonii*** (Ghana) ***Pelusios castaneus*** (Ghana) ***Pelusios gabonensis*** (Ghana) ***Pelusios niger*** (Ghana)
Chelidae Austro-American side-necked turtle		
Pseudemydura umbrina		
CROCODYLIA Alligators, caimans, crocodiles		
	CROCODYLIA spp. (Except the species included in Appendix I)	
Alligatoridae Alligators, caimans		
Alligator sinensis ***Caiman crocodilus apaporiensis*** ***Caiman latirostris*** (Except the population of Argentina, which is included in Appendix II)		

Appendices		
I	II	III
Melanosuchus niger (Except the population of Ecuador, which is included in Appendix II, and is subject to a zero annual export quota until an annual export quota has been approved by the CITES Secretariat and the IUCN/SSC Crocodile Specialist Group)		
Crocodylidae Crocodiles		
Crocodylus acutus ***Crocodylus cataphractus*** ***Crocodylus intermedius*** ***Crocodylus mindorensis*** ***Crocodylus moreletii*** ***Crocodylus niloticus*** (Except the populations of Botswana, Ethiopia, Kenya, Madagascar, Malawi, Mozambique, South Africa, Uganda, the United Republic of Tanzania [subject to an annual export quota of no more than 1600 wild specimens including hunting trophies, in addition to ranched specimens], Zambia and Zimbabwe; these populations are included in Appendix II) ***Crocodylus palustris*** ***Crocodylus porosus*** (Except the populations of Australia, Indonesia and Papua New Guinea, which are included in Appendix II) ***Crocodylus rhombifer*** ***Crocodylus siamensis*** ***Osteolaemus tetraspis*** ***Tomistoma schlegelii***		
Gavialidae Gavial		
Gavialis gangeticus		
RHYNCHOCEPHALIA		
Sphenodontidae Tuatara		
***Sphenodon* spp.**		
SAURIA		
Gekkonidae Geckos		
	Cyrtodactylus serpensinsula ***Phelsuma* spp.**	***Hoplodactylus* spp.** (New Zealand) ***Naultinus* spp.** (New Zealand)

Appendices		
I	II	III
Agamidae Agamas, mastigures		
	***Uromastyx* spp.**	
Chamaeleonidae Chameleons		
Brookesia perarmata	***Bradypodion* spp.** ***Brookesia* spp.** (Except the species included in Appendix I) ***Calumma* spp.** ***Chamaeleo* spp.** ***Furcifer* spp.**	
Iguanidae Iguanas		
Brachylophus* spp.** ***Cyclura* spp.** ***Sauromalus varius	***Amblyrhynchus cristatus*** ***Conolophus* spp.** ***Iguana* spp.** ***Phrynosoma coronatum***	
Lacertidae Lizards		
Gallotia simonyi	***Podarcis lilfordi*** ***Podarcis pityusensis***	
Cordylidae Spiny-tailed lizards		
	***Cordylus* spp.**	
Teiidae Caiman lizards, tegu lizards		
	Crocodilurus amazonicus ***Dracaena* spp.** ***Tupinambis* spp.**	
Scincidae Skink		
	Corucia zebrata	
Xenosauridae Chinese crocodile lizard		
	Shinisaurus crocodilurus	
Helodermatidae Beaded lizard, gila monster		
	***Heloderma* spp.**	
Varanidae Monitor lizards		
Varanus bengalensis ***Varanus flavescens*** ***Varanus griseus*** ***Varanus komodoensis*** ***Varanus nebulosus***	***Varanus* spp.** (Except the species included in Appendix I)	
SERPENTES Snakes		
Loxocemidae Mexican dwarf boa		
	Loxocemidae spp.	
Pythonidae Pythons		
Python molurus molurus	**Pythonidae spp.** (Except the subspecies included in Appendix I)	

Appendices		
I	II	III
Boidae Boas		
Acrantophis* spp.** ***Boa constrictor occidentalis ***Epicrates inornatus*** ***Epicrates monensis*** ***Epicrates subflavus*** ***Sanzinia madagascariensis***	**Boidae spp.** (Except the species included in Appendix I)	
Bolyeriidae Round Island boas		
Bolyeria multocarinata ***Casarea dussumieri***	**Bolyeriidae spp.** (Except the species included in Appendix I)	
Tropidophiidae Wood boas		
	Tropidophiidae spp.	
Colubridae Typical snakes, water snakes, whipsnakes		
	Clelia clelia ***Cyclagras gigas*** ***Elachistodon westermanni*** ***Ptyas mucosus***	***Atretium schistosum*** (India) ***Cerberus rhynchops*** (India) ***Xenochrophis piscator*** (India)
Elapidae Cobras, coral snakes		
	Hoplocephalus bungaroides ***Naja atra*** ***Naja kaouthia*** ***Naja mandalayensis*** ***Naja naja*** ***Naja oxiana*** ***Naja philippinensis*** ***Naja sagittifera*** ***Naja samarensis*** ***Naja siamensis*** ***Naja sputatrix*** ***Naja sumatrana*** ***Ophiophagus hannah***	***Micrurus diastema*** (Honduras) ***Micrurus nigrocinctus*** (Honduras)
Viperidae Vipers		
		Crotalus durissus (Honduras) ***Daboia russelii*** (India)

Appendices		
I	II	III
Vipera ursinii (Only the population of Europe, except the area which formerly constituted the Union of Soviet Socialist Republics; these latter populations are not included in the Appendices)	***Vipera wagneri***	
CLASS AMPHIBIA (AMPHIBIANS)		
ANURA		
Bufonidae Toads		
Altiphrynoides* spp.** ***Atelopus zeteki ***Bufo periglenes*** ***Bufo superciliaris*** ***Nectophrynoides* spp.** ***Nimbaphrynoides* spp.** ***Spinophrynoides* spp.**		
Dendrobatidae Poison frogs		
	***Dendrobates* spp.** ***Epipedobates* spp.** ***Minyobates* spp.** ***Phyllobates* spp.**	
Mantellidae Mantellas		
	***Mantella* spp.**	
Microhylidae Red rain frog, tomato frog		
Dyscophus antongilii	***Scaphiophryne gottlebei***	
Myobatrachidae Gastric-brooding frogs		
	***Rheobatrachus* spp.**	
Ranidae Frogs		
	Euphlyctis hexadactylus ***Hoplobatrachus tigerinus***	
CAUDATA		
Ambystomidae Axolotls		
	Ambystoma dumerilii ***Ambystoma mexicanum***	
Cryptobranchidae Giant salamanders		
***Andrias* spp.**		
CLASS ELASMOBRANCHII (SHARKS)		
ORECTOLOBIFORMES		
Rhincodontidae Whale shark		
	Rhincodon typus	
LAMNIFORMES		
Lamnidae Great white shark		
		Carcharodon carcharias (Australia)

Appendices		
I	II	III
Cetorhinidae Basking shark		
	Cetorhinus maximus	
CLASS ACTINOPTERYGII (FISH)		
ACIPENSERIFORMES Paddlefish, sturgeons		
	ACIPENSERIFORMES spp. (Except the species included in Appendix I)	
Acipenseridae Sturgeons		
Acipenser brevirostrum		
Acipenser sturio		
OSTEOGLOSSIFORMES		
Osteoglossidae Arapaima, bonytongue		
	Arapaima gigas	
Scleropages formosus		
CYPRINIFORMES		
Cyprinidae Blind carps, plaeesok		
	Caecobarbus geertsi	
Probarbus jullieni		
Catostomidae Cui-ui		
Chasmistes cujus		
SILURIFORMES		
Pangasiidae Pangasid catfish		
Pangasianodon gigas		
SYNGNATHIFORMES		
Syngnathidae Pipefishes, seahorses		
	***Hippocampus* spp.**	
PERCIFORMES		
Sciaenidae Totoaba		
Totoaba macdonaldi		
CLASS SARCOPTERYGII (LUNGFISHES)		
COELACANTHIFORMES		
Latimeriidae Coelacanths		
***Latimeria* spp.**		
CERATODONTIFORMES		
Ceratodontidae Australian lungfish		
	Neoceratodus forsteri	
PHYLUM ECHINODERMATA		
CLASS HOLOTHUROIDEA (SEA CUCUMBERS)		
ASPIDOCHIROTIDA		
Stichopodidae Sea cucumbers		
		Isostichopus fuscus (Ecuador)

Appendices		
I	II	III
PHYLUM ARTHROPODA		
CLASS ARACHNIDA (SPIDERS)		
SCORPIONES		
Scorpionidae Scorpions		
	Pandinus dictator ***Pandinus gambiensis*** ***Pandinus imperator***	
ARANEAE		
Theraphosidae Red-kneed tarantulas, tarantulas		
	Aphonopelma albiceps ***Aphonopelma pallidum*** ***Brachypelma* spp.** ***Brachypelmides klaasi***	
CLASS INSECTA (INSECTS)		
COLEOPTERA		
Lucanidae Cape stag beetles		
		***Colophon* spp.** (South Africa)
LEPIDOPTERA		
Papilionidae Birdwing butterflies, swallowtail butterflies		
Ornithoptera alexandrae ***Papilio chikae*** ***Papilio homerus*** ***Papilio hospiton***	***Atrophaneura jophon*** ***Atrophaneura pandiyana*** ***Bhutanitis* spp.** ***Ornithoptera* spp.** (*sensu* D'Abrera) (Except the species included in Appendix I) ***Parnassius apollo*** ***Teinopalpus* spp.** ***Trogonoptera* spp.** (*sensu* D'Abrera) ***Troides* spp.** (*sensu* D'Abrera)	
PHYLUM ANNELIDA		
CLASS HIRUDINOIDEA (LEECHES)		
ARHYNCHOBDELLIDA		
Hirudinidae Medicinal leech		
	Hirudo medicinalis	

Appendices		
I	II	III
PHYLUM MOLLUSCA		
CLASS BIVALVIA (CLAMS, MUSSELS)		
VENERIDA		
Tridacnidae Giant clams		
	Tridacnidae spp.	
UNIONIDA		
Unionidae Freshwater mussels, pearly mussels		
Conradilla caelata	***Cyprogenia aberti***	
Dromus dromas		
Epioblasma curtisi		
Epioblasma florentina		
Epioblasma sampsoni		
Epioblasma sulcata perobliqua		
Epioblasma torulosa gubernaculum	***Epioblasma torulosa rangiana***	
Epioblasma torulosa torulosa		
Epioblasma turgidula		
Epioblasma walkeri		
Fusconaia cuneolus		
Fusconaia edgariana		
Lampsilis higginsii		
Lampsilis orbiculata orbiculata		
Lampsilis satur		
Lampsilis virescens		
Plethobasus cicatricosus		
Plethobasus cooperianus	***Pleurobema clava***	
Pleurobema plenum		
Potamilus capax		
Quadrula intermedia		
Quadrula sparsa		
Toxolasma cylindrella		
Unio nickliniana		
Unio tampicoensis tecomatensis		
Villosa trabalis		
CLASS GASTROPODA (SNAILS AND CONCHES)		
STYLOMMATOPHORA		
Achatinellidae Agate snails, oahu tree snails		
***Achatinella* spp.**		
Camaenidae Green tree snail		
	Papustyla pulcherrima	

Appendices		
I	II	III
MESOGASTROPODA		
Strombidae Queen conch		
	Strombus gigas	
PHYLUM CNIDARIA **CLASS ANTHOZOA** **(CORALS, SEA ANEMONES)**		
HELIOPORACEA Blue corals		
	Helioporidae spp. (Includes only the species *Heliopora coerulea*. Fossils are not subject to the provisions of the Convention)	
STOLONIFERA		
Tubiporidae Organ-pipe corals		
	Tubiporidae spp. (Fossils are not subject to the provisions of the Convention)	
ANTIPATHARIA Black corals		
	ANTIPATHARIA spp.	
SCLERACTINIA Stony corals		
	SCLERACTINIA spp. (Fossils are not subject to the provisions of the Convention)	
CLASS HYDROZOA **(SEA FERNS, FIRE CORALS, STINGING MEDUSAE)**		
MILLEPORINA		
Milleporidae Fire corals		
	Milleporidae spp. (Fossils are not subject to the provisions of the Convention)	
STYLASTERINA		
Stylasteridae Lace corals		
	Stylasteridae spp. (Fossils are not subject to the provisions of the Convention)	

F L O R A (PLANTS)		
AGAVACEAE Agaves		
Agave arizonica ***Agave parviflora*** ***Nolina interrata***	***Agave victoriae-reginae*** #1	
AMARYLLIDACEAE Snowdrops, sternbergias		
	***Galanthus* spp.** #1 ***Sternbergia* spp.** #1	
APOCYNACEAE Elephant trunks		
Pachypodium ambongense ***Pachypodium baronii*** ***Pachypodium decaryi***	***Pachypodium* spp.** #1 (Except the species included in Appendix I) ***Rauvolfia serpentina*** #2	
ARALIACEAE Ginseng		
	Panax ginseng #3 (Only the population of the Russian Federation; no other population is included in the Appendices) ***Panax quinquefolius*** #3	
ARAUCARIACEAE Monkey-puzzle tree		
Araucaria araucana		
BERBERIDACEAE May-apple		
	Podophyllum hexandrum #2	
BROMELIACEAE Air plants, bromelias		
	Tillandsia harrisii #1 ***Tillandsia kammii*** #1 ***Tillandsia kautskyi*** #1 ***Tillandsia mauryana*** #1 ***Tillandsia sprengeliana*** #1 ***Tillandsia sucrei*** #1 ***Tillandsia xerographica*** #1	
CACTACEAE Cacti		
Ariocarpus* spp.** ***Astrophytum asterias ***Aztekium ritteri*** ***Coryphantha werdermannii***	**CACTACEAE spp.**[7] #4 (Except the species included in Appendix I)	

[7]Artificially propagated specimens of the following hybrids and/or cultivars are not subject to the provisions of the Convention:
- *Hatiora* x *graeseri*
- *Schlumbergera* x *buckleyi*
- *Schlumbergera russelliana* x *Schlumbergera truncata*
- *Schlumbergera orssichiana* x *Schlumbergera truncata*
- *Schlumbergera opuntioides* x *Schlumbergera truncata*
- *Schlumbergera truncata* (cultivars)
- Cactaceae spp. colour mutants lacking chlorophyll, grafted on the following grafting stocks: *Harrisia* 'Jusbertii', *Hylocereus trigonus* or *Hylocereus undatus*
- *Opuntia microdasys* (cultivars).

Appendices		
I	II	III
***Discocactus* spp.**		
Echinocereus ferreirianus* ssp. *lindsayi		
Echinocereus schmollii		
Escobaria minima		
Escobaria sneedii		
Mammillaria pectinifera		
Mammillaria solisioides		
Melocactus conoideus		
Melocactus deinacanthus		
Melocactus glaucescens		
Melocactus paucispinus		
Obregonia denegrii		
Pachycereus militaris		
Pediocactus bradyi		
Pediocactus knowltonii		
Pediocactus paradinei		
Pediocactus peeblesianus		
Pediocactus sileri		
***Pelecyphora* spp.**		
Sclerocactus brevihamatus* ssp. *tobuschii		
Sclerocactus erectocentrus		
Sclerocactus glaucus		
Sclerocactus mariposensis		
Sclerocactus mesae-verdae		
Sclerocactus nyensis		
Sclerocactus papyracanthus		
Sclerocactus pubispinus		
Sclerocactus wrightiae		
***Strombocactus* spp.**		
***Turbinicarpus* spp.**		
***Uebelmannia* spp.**		
CARYOCARACEAE Ajo		
	Caryocar costaricense #1	
COMPOSITAE (Asteraceae) Kuth		
Saussurea costus		
CRASSULACEAE Dudleyas		
	Dudleya stolonifera	
	Dudleya traskiae	
CUPRESSACEAE Alerce, cypresses		
Fitzroya cupressoides		
Pilgerodendron uviferum		
CYATHEACEAE Tree-ferns		
	***Cyathea* spp.** #1	
CYCADACEAE Cycads		
	CYCADACEAE spp. #1	
Cycas beddomei		
DIAPENSIACEAE Oconee-bells		
	Shortia galacifolia #1	

Appendices		
I	**II**	**III**
DICKSONIACEAE Tree-ferns		
	Cibotium barometz #1 ***Dicksonia* spp.** #1 (Only the populations of the Americas; no other population is included in the Appendices)	
DIDIEREACEAE Alluaudias, didiereas		
	DIDIEREACEAE spp. #1	
DIOSCOREACEAE Elephant's foot, kniss		
	Dioscorea deltoidea #1	
DROSERACEAE Venus' flytrap		
	Dionaea muscipula #1	
EUPHORBIACEAE Spurges		
Euphorbia ambovombensis ***Euphorbia capsaintemariensis*** ***Euphorbia cremersii*** (Includes the *forma viridifolia* and the var. *rakotozafyi*) ***Euphorbia cylindrifolia*** (Includes the spp. *tuberifera*) ***Euphorbia decaryi*** (Includes the vars. *ampanihyenis*, *robinsonii* and *spirosticha*) ***Euphorbia francoisii*** ***Euphorbia moratii*** (Includes the vars. *antsingiensis*, *bemarahensis* and *multiflora*) ***Euphorbia parvicyathophora*** ***Euphorbia quartziticola*** ***Euphorbia tulearensis***	***Euphorbia* spp.** #1 (Except the species included in Appendix I; succulent species only; artificially propagated specimens of cultivars of *Euphorbia trigona* are not subject to the provisions of the Convention)	
FOUQUIERIACEAE Ocotillos		
Fouquieria fasciculata ***Fouquieria purpusii***	***Fouquieria columnaris*** #1	
GNETACEAE Gnetums		
		Gnetum montanum #1 (Nepal)
JUGLANDACEAE Gavilan		
	Oreomunnea pterocarpa #1	

Appendices		
I	II	III
LEGUMINOSAE (Fabaceae) Afrormosia, cristobal, rosewood, sandalwood		
Dalbergia nigra	***Pericopsis elata*** #5 ***Platymiscium pleiostachyum*** #1 ***Pterocarpus santalinus*** #7	***Dipteryx panamensis*** (Costa Rica)
LILIACEAE Aloes		
Aloe albida ***Aloe albiflora*** ***Aloe alfredii*** ***Aloe bakeri*** ***Aloe bellatula*** ***Aloe calcairophila*** ***Aloe compressa*** (Includes the vars. *rugosquamosa*, *schistophila* and *paucituberculata*) ***Aloe delphinensis*** ***Aloe descoingsii*** ***Aloe fragilis*** ***Aloe haworthioides*** (Includes the var. *aurantiaca*) ***Aloe helenae*** ***Aloe laeta*** (Includes the var. *maniaensis*) ***Aloe parallelifolia*** ***Aloe parvula*** ***Aloe pillansii*** ***Aloe polyphylla*** ***Aloe rauhii*** ***Aloe suzannae*** ***Aloe versicolor*** ***Aloe vossii***	***Aloe* spp.** #1 (Except the species included in Appendix I. Also excludes *Aloe vera*, also referenced as *Aloe barbadensis* which is not included in the Appendices)	
MAGNOLIACEAE Magnolia		
		Magnolia liliifera* var. *obovata #1 (Nepal)
MELIACEAE Mahoganies, Spanish cedar		
	Swietenia humilis #1	***Cedrela odorata*** #5 [Population of Colombia (Colombia) Population of Peru (Peru)]

Appendices		
I	**II**	**III**
	Swietenia macrophylla #6 (Populations of the Neotropics) [Enters into effect on 15 November 2003] ***Swietenia mahagoni*** #5	***Swietenia macrophylla*** #5 (Until 15 November 2003) [Population of Bolivia (Bolivia) Population of Brazil (Brazil) All populations of the species in the Americas (Costa Rica) Population of Colombia (Colombia) Population of Mexico (Mexico) Population of Peru (Peru)]
NEPENTHACEAE Pitcher-plants (Old World)		
Nepenthes khasiana ***Nepenthes rajah***	***Nepenthes* spp.** #1	
ORCHIDACEAE Orchids		
(For all of the following Appendix-I species, seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers are not subject to the provisions of the Convention) ***Aerangis ellisii*** ***Cattleya trianaei*** ***Dendrobium cruentum*** ***Laelia jongheana*** ***Laelia lobata*** ***Paphiopedilum* spp.** ***Peristeria elata*** ***Phragmipedium* spp.** ***Renanthera imschootiana*** ***Vanda coerulea***	**ORCHIDACEAE spp.**[8] #8 (Except the species included in Appendix I)	
OROBANCHACEAE Broomrape		
	Cistanche deserticola	

[8]Artificially propagated specimens of hybrids within the genus *Phalaenopsis* are not subject to the provisions of the Convention when: 1) specimens are traded in shipments consisting of individual containers (i.e. cartons, boxes, or crates) containing 100 or more plants each; 2) all plants within a container are of the same hybrid, with no mixing of different hybrids within a container; 3) plants within a container can be readily recognized as artificially propagated specimens by exhibiting a high degree of uniformity in size and stage of growth, cleanliness, intact root systems, and general absence of damage or injury that could be attributable to plants originating in the wild; 4) plants do not exhibit characteristics of wild origin, such as damage by insects or other animals, fungi or algae adhering to leaves, or mechanical damage to roots, leaves, or other parts resulting from collection; and 5) shipments are accompanied by documentation, such as an invoice, which clearly states the number of plants and is signed by the shipper. Plants not clearly qualifying for the exemption must be accompanied by appropriate CITES documents.

Appendices		
I	II	III
PALMAE (Arecaceae) Palms		
	Beccariophoenix madagascariensis ***Chrysalidocarpus decipiens*** #1 ***Lemurophoenix halleuxii*** ***Marojejya darianii*** ***Neodypsis decaryi*** #1 ***Ravenea louvelii*** ***Ravenea rivularis*** ***Satranala decussilvae*** ***Voanioala gerardii***	
PAPAVERACEAE Poppy		
		Meconopsis regia #1 (Nepal)
PINACEAE Guatemala fir		
Abies guatemalensis		
PODOCARPACEAE Podocarps		
Podocarpus parlatorei		***Podocarpus neriifolius*** #1 (Nepal)
PORTULACACEAE Lewisias, portulacas, purslanes		
	Anacampseros* spp.** #1 ***Avonia* spp.** #1 ***Lewisia serrata #1	
PRIMULACEAE Cyclamens		
	***Cyclamen* spp.**[9] #1	
PROTEACEAE Proteas		
	Orothamnus zeyheri #1 ***Protea odorata*** #1	
RANUNCULACEAE Golden seals, yellow adonis, yellow root		
	Adonis vernalis #2 ***Hydrastis canadensis*** #3	
ROSACEAE African cherry, stinkwood		
	Prunus africana #1	
RUBIACEAE Ayuque		
Balmea stormiae		
SARRACENIACEAE Pitcher-plants (New World)		
Sarracenia rubra* ssp. *alabamensis ***Sarracenia rubra* ssp. *jonesii*** ***Sarracenia oreophila***	***Sarracenia* spp.** #1 (Except the species included in Appendix I)	
SCROPHULARIACEAE Kutki		
	Picrorhiza kurrooa #3 (Excludes *Picrorhiza scrophulariiflora)*	
STANGERIACEAE Stangerias		
Stangeria eriopus	***Bowenia* spp.** #1	

[9]Artificially propagated specimens of cultivars of *Cyclamen persicum* are not subject to the provisions of the Convention. However, the exemption does not apply to such specimens traded as dormant tubers.

Appendices		
I	**II**	**III**
TAXACEAE Himalayan yew		
	Taxus wallichiana #2	
TROCHODENDRACEAE (Tetracentraceae) Tetracentron		
		Tetracentron sinense #1 (Nepal)
THYMELAEACEAE (Aquilariaceae) Agarwood, ramin		
	Aquilaria malaccensis #1	***Gonystylus* spp.** #1 (Indonesia)
VALERIANACEAE Himalayan spikenard		
	Nardostachys grandiflora #3	
WELWITSCHIACEAE Welwitschia		
	Welwitschia mirabilis #1	
ZAMIACEAE Cycads		
Ceratozamia* spp.** ***Chigua* spp.** ***Encephalartos* spp.** ***Microcycas calocoma	**ZAMIACEAE spp.** #1 (Except the species included in Appendix I)	
ZINGIBERACEAE Ginger lily		
	Hedychium philippinense #1	
ZYGOPHYLLACEAE Lignum-vitae		
	***Guaiacum* spp.** #2	

Appendices		
I	**II**	**III**
TAXACEAE Himalayan yew		
	Taxus wallichiana #2	
TROCHODENDRACEAE (Tetracentraceae) Tetracentron		
		Tetracentron sinense #1 (Nepal)
THYMELAEACEAE (Aquilariaceae) Agarwood, ramin		
	Aquilaria malaccensis #1	***Gonystylus* spp.** #1 (Indonesia)
VALERIANACEAE Himalayan spikenard		
	Nardostachys grandiflora #3	
WELWITSCHIACEAE Welwitschia		
	Welwitschia mirabilis #1	
ZAMIACEAE Cycads		
Ceratozamia* spp.** ***Chigua* spp.** ***Encephalartos* spp.** ***Microcycas calocoma	**ZAMIACEAE spp.** #1 (Except the species included in Appendix I)	
ZINGIBERACEAE Ginger lily		
	Hedychium philippinense #1	
ZYGOPHYLLACEAE Lignum-vitae		
	***Guaiacum* spp.** #2	

24. CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS

The Contracting Parties,

RECOGNIZING that wild animals in their innumerable forms are an irreplaceable part of the earth's natural system which must be conserved for the good of mankind;

AWARE that each generation of man holds the resources of the earth for future generations and has an obligation to ensure that this legacy is conserved and, where utilized, is used wisely;

CONSCIOUS of the ever-growing value of wild animals from environmental, ecological, genetic, scientific, aesthetic, recreational, cultural, educational, social and economic points of view;

CONCERNED particularly with those species of wild animals that migrate across or outside national jurisdictional boundaries;

RECOGNIZING that the States are and must be the protectors of the migratory species of wild animals that live within or pass through their national jurisdictional boundaries;

CONVINCED that conservation and effective management of migratory species of wild animals require the concerted action of all States within the national jurisdictional boundaries of which such species spend any part of their life cycle;

RECALLING Recommendation 32 of the Action Plan adopted by the United Nations Conference on the Human Environment (Stockholm, 1972) and noted with satisfaction at the Twenty-seventh Session of the General Assembly of the United Nations;

HAVE AGREED as follows:

Article I
Interpretation

1. For the purpose of this Convention:

a) "Migratory species" means the entire population or any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries;

b) "Conservation status of a migratory species" means the sum of the influences acting on the migratory species that may affect its long-term distribution and abundance;

c) "Conservation status" will be taken as "favourable" when:
(1) population dynamics data indicate that the migratory species is maintaining itself on a long-term basis as a viable component of its ecosystems;
(2) the range of the migratory species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;
(3) there is, and will be in the foreseeable future sufficient habitat to maintain the population of the migratory species on a long-term basis; and
(4) the distribution and abundance of the migratory species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management;

d) "Conservation status" will be taken as "unfavourable" if any of the conditions set out in sub-paragraph (c) of this paragraph is not met;

e) "Endangered" in relation to a particular migratory species means that the migratory species is in danger of extinction throughout all or a significant portion of its range;

f) "Range" means all the areas of land or water that a migratory species inhabits, stays in temporarily, crosses or overflies at any time on its normal migration route;

g) "Habitat" means any area in the range of a migratory species which contains suitable living conditions for that species;

h) "Range State" in relation to a particular migratory species means any State (and where appropriate any other Party referred to under subparagraph (k) of this paragraph) that exercises jurisdiction over any part of the range of that migratory species, or a State, flag vessels of which are engaged outside national jurisdictional limits in taking that migratory species;

i) "Taking" means taking, hunting, fishing capturing, harassing, deliberate killing, or attempting to engage in any such conduct;

j) "Agreement" means an international agreement relating to the conservation of one or more migratory species as provided for in Articles IV and V of this Convention; and

k) "Party" means a State or any regional economic integration organization constituted by sovereign States which has competence in respect of the negotiation, conclusion and application of international Agreements in matters covered by this Convention for which this Convention is in force.

2. In matters within their competence, the regional economic integration organizations which are Parties to this Convention shall in their own name exercise the rights and fulfil the responsibilities which this Convention attributes to their member States. In such cases the member States of these organizations shall not be entitled to exercise such rights individually.
3. Where this Convention provides for a decision to be taken by either a two-thirds majority or a unanimous decision of "the Parties present and voting" this shall mean "the Parties present and casting an affirmative or negative vote". Those abstaining from voting shall not be counted amongst "the Parties present and voting" in determining the majority.

Article II
Fundamental Principles

1. The Parties acknowledge the importance of migratory species being conserved and of Range States agreeing to take action to this end whenever possible and appropriate, paying special attention to migratory species the conservation status of which is unfavourable, and taking individually or in co-operation appropriate and necessary steps to conserve such species and their habitat.

2. The Parties acknowledge the need to take action to avoid any migratory species becoming endangered.

3. In particular, the Parties:
a) should promote, co-operate in and support research relating to migratory species;

b) shall endeavour to provide immediate protection for migratory species included in Appendix I; and

c) shall endeavour to conclude Agreements covering the conservation and management of migratory species included in Appendix II.

Article III
Endangered Migratory Species: Appendix I

1. Appendix I shall list migratory species which are endangered.

2. A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered.

3. A migratory species may be removed from Appendix I when the Conference of the Parties determines that:
a) reliable evidence, including the best scientific evidence available, indicates that the species is no longer endangered, and

b) the species is not likely to become endangered again because of loss of protection due to its removal from Appendix I.

4. Parties that are Range States of a migratory species listed in Appendix I shall endeavour:
a) to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;

b) to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and

c) to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.

5. Parties that are Range States of a migratory species listed in Appendix I shall prohibit the taking of animals belonging to such species. Exceptions may be made to this prohibition only if:
a) the taking is for scientific purposes;

b) the taking is for the purpose of enhancing the propagation or survival of the affected species;

c) the taking is to accommodate the needs of traditional subsistence users of such species; or

d) extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time. Such taking should not operate to the disadvantage of the species.

6. The Conferences of the Parties may recommend to the Parties that are Range States of a migratory species listed in Appendix I that they take further measures considered appropriate to benefit the species.

7. The Parties shall as soon as possible inform the Secretariat of any exceptions made pursuant to paragraph 5 of this Article.

Article IV
Migratory Species to be the Subject of Agreements: Appendix II

1. Appendix II shall list migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement.

2. If the circumstances so warrant, a migratory species may be listed both in Appendix I and Appendix II.

3. Parties that are Range States of migratory species listed in Appendix II shall endeavour to conclude Agreements where these should benefit the species and should give priority to those species in an unfavourable conservation status.

4. Parties are encouraged to take action with a view to concluding agreements for any population or any geographically separate part of the population of any species or lower taxon of wild animals, members of which periodically cross one or more national jurisdiction boundaries.

5. The Secretariat shall be provided with a copy of each Agreement concluded pursuant to the provisions of this Article.

Article V
Guidelines for Agreements

1. The object of each Agreement shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status. Each Agreement should deal with those aspects of the conservation and management of the migratory species concerned which serve to achieve that object.

2. Each Agreement should cover the whole of the range of the migratory species concerned and should be open to accession by all Range States of that species, whether or not they are Parties to this Convention.

3. An Agreement should, wherever possible, deal with more than one migratory species.

4. Each Agreement should:

a) identify the migratory species covered;

b) describe the range and migration route of the migratory species;

c) provide for each Party to designate its national authority concerned with the implementation of the Agreement;

d) establish, if necessary, appropriate machinery to assist in carrying out the aims of the Agreement, to monitor its effectiveness, and to prepare reports for the Conference of the Parties;

e) provide for procedures for the settlement of disputes between Parties to the Agreement; and

f) at a minimum, prohibit, in relation to a migratory species of the Order Cetacea, any taking that is not permitted for that migratory species under any other multilateral Agreement and provide for accession to the Agreement by States that are not Range States of that migratory species.

5. Where appropriate and feasible, each Agreement should provide for but not be limited to:

a) periodic review of the conservation status of the migratory species concerned and the identification of the factors which may be harmful to that status;

b) co-ordinated conservation and management plans;

c) research into the ecology and population dynamics of the migratory species concerned, with special regard to migration;

d) the exchange of information on the migratory species concerned, special regard being paid to the exchange of the results of research and of relevant statistics;

e) conservation and, where required and feasible, restoration of the habitats of importance in maintaining a favourable conservation status, and protection of such habitats from disturbances, including strict control of the introduction of, or control of already introduced, exotic species detrimental to the migratory species;

f) maintenance of a network of suitable habitats appropriately disposed in relation to the migration routes;

g) where it appears desirable, the provision of new habitats favourable to the migratory species or reintroduction of the migratory species into favourable habitats;

h) elimination of, to the maximum extent possible, or compensation for activities and obstacles which hinder or impede migration;

i) prevention, reduction or control of the release into the habitat of the migratory species of substances harmful to that migratory species;

j) measures based on sound ecological principles to control and manage the taking of the migratory species;

k) procedures for co-ordinating action to suppress illegal taking;

l) exchange of information on substantial threats to the migratory species;

m) emergency procedures whereby conservation action would be considerably and rapidly strengthened when the conservation status of the migratory species is seriously affected; and

n) making the general public aware of the contents and aims of the Agreement.

Article VI
Range States

1. A list of the Range States of migratory species listed in Appendices I and II shall be kept up to date by the Secretariat using information it has received from the Parties.

2. The Parties shall keep the Secretariat informed in regard to which of the migratory species listed in Appendices I and II they consider themselves to be Range States, including provision of information on their flag vessels engaged outside national jurisdictional limits in taking the migratory species concerned and, where possible, future plans in respect of such taking.

3. The Parties which are Range States for migratory species listed in Appendix I or Appendix II should inform the Conference of the Parties through the Secretariat, at least six months prior to each ordinary meeting of the Conference, on measures that they are taking to implement the provisions of this Convention for these species.

Article VII
The Conference of the Parties

1. The Conference of the Parties shall be the decision-making organ of this Convention.

2. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of this Convention.

3. Thereafter the Secretariat shall convene ordinary meetings of the Conference of the Parties at intervals of not more than three years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.

4. The Conference of the Parties shall establish and keep under review the financial regulations of this Convention. The Conference of the Parties shall, at each of its ordinary meetings, adopt the budget for the next financial period. Each Party shall contribute to this budget according to a scale to be agreed upon by the Conference. Financial regulations, including the provisions on the budget and the scale of contributions as well as their modifications, shall be adopted by unanimous vote of the Parties present and voting.

5. At each of its meetings the Conference of the Parties shall review the implementation of this Convention and may in particular:

a) review and assess the conservation status of migratory species;

b) review the progress made towards the conservation of migratory species, especially those listed in Appendices I and II;

c) make such provision and provide such guidance as may be necessary to enable the Scientific Council and the Secretariat to carry out their duties;

d) receive and consider any reports presented by the Scientific Council, the Secretariat, any Party or any standing body established pursuant to an Agreement;

e) make recommendations to the Parties for improving the conservation status of migratory species and review the progress being made under Agreements;

f) in those cases where an Agreement has not been concluded, make recommendations for the convening of meetings of the Parties that are Range States of a migratory species or group of migratory species to discuss measures to improve the conservation status of the species;

g) make recommendations to the Parties for improving the effectiveness of this Convention; and

h) decide on any additional measure that should be taken to implement the objectives of this Convention.

6. Each meeting of the Conference of the Parties should determine the time and venue of the next meeting.

7. Any meeting of the Conference of the Parties shall determine and adopt rules of procedure for that meeting. Decisions at a meeting of the Conference of the Parties shall require a two-thirds majority of the Parties present and voting, except where otherwise provided for by this Convention.

8. The United Nations, its Specialized Agencies, the International Atomic Energy Agency, as well as any State not a party to this Convention and, for each Agreement, the body designated by the parties to that Agreement, may be represented by observers at meetings of the Conference of the Parties.

9. Any agency or body technically qualified in protection, conservation and management of migratory species, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference of the Parties by observers, shall be admitted unless at least one-third of the Parties present object:

a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.

Article VIII
The Scientific Council

1. At its first meeting, the Conference of the Parties shall establish a Scientific Council to provide advice on scientific matters.

2. Any Party may appoint a qualified expert as a member of the Scientific Council. In addition, the Scientific Council shall include as members qualified experts selected and appointed by the Conference of the Parties; the number of these experts, the criteria for their selection and the terms of their appointments shall be as determined by the Conference of the Parties.

3. The Scientific Council shall meet at the request of the Secretariat as required by the Conference of the Parties.

4. Subject to the approval of the Conference of the Parties, the Scientific Council shall establish its own rules of procedure.

5. The Conference of the Parties shall determine the functions of the Scientific Council, which may include:

a) providing scientific advice to the Conference of the Parties, to the Secretariat, and, if approved by the Conference of the Parties, to any body set up under this Convention or an Agreement or to any Party;

b) recommending research and the co-ordination of research on migratory species, evaluating the results of such research in order to ascertain the conservation status of migratory species and reporting to the Conference of the Parties on such status and measures for its improvement;

c) making recommendations to the Conference of the Parties as to the migratory species to be included in Appendices I and II, together with an indication of the range of such migratory species;

d) making recommendations to the Conference of the Parties as to specific conservation and management measures to be included in Agreements on migratory species; and

e) recommending to the Conference of the Parties solutions to problems relating to the scientific aspects of the implementation of this Convention, in particular with regard to the habitats of migratory species.

Article IX
The Secretariat

1. For the purposes of this Convention a Secretariat shall be established.

2. Upon entry into force of this Convention, the Secretariat is provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable intergovernmental or non-governmental, international or national agencies and bodies technically qualified in protection, conservation and management of wild animals.

3. If the United Nations Environment Programme is no longer able to provide the Secretariat, the Conference of the Parties shall make alternative arrangements for the Secretariat.

4. The functions of the Secretariat shall be:

a) to arrange for and service meetings: (i) of the Conference of the Parties, and (ii) of the Scientific Council;

b) to maintain liaison with and promote liaison between the Parties, the standing bodies set up under Agreements and other international organizations concerned with migratory species;

c) to obtain from any appropriate source reports and other information which will further the objectives and implementation of this Convention and to arrange for the appropriate dissemination of such information;

d) to invite the attention of the Conference of the Parties to any matter pertaining to the objectives of this Convention;

e) to prepare for the Conference of the Parties reports on the work of the Secretariat and on the implementation of this Convention;

f) to maintain and publish a list of Range States of all migratory species included in Appendices I and II;

g) to promote, under the direction of the Conference of the Parties, the conclusion of Agreements;

h) to maintain and make available to the Parties a list of Agreements and, if so required by the Conference of the Parties, to provide any information on such Agreements;

i) to maintain and publish a list of the recommendations made by the Conference of the Parties pursuant to sub-paragraphs (e), (f) and (g) of paragraph 5 of Article VII or of decisions made pursuant to sub-paragraph (h) of that paragraph;

j) to provide for the general public information concerning this Convention and its objectives; and

k) to perform any other function entrusted to it under this Convention or by the Conference of the Parties.

Article X
Amendment of the Convention

1. This Convention may be amended at any ordinary or extraordinary meeting of the Conference of the Parties.

2. Proposals for amendment may be made by any Party.

3. The text of any proposed amendment and the reasons for it shall be communicated to the Secretary at least one hundred and fifty days before the meeting at which it is to be considered and shall promptly be communicated by the Secretary to all Parties. Any comments on the text by the Parties shall be communicated to the Secretariat not less than sixty days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Parties all comments submitted by that day.

4. Amendments shall be adopted by a two-thirds majority of Parties present and voting.

5. An amendment adopted shall enter into force for all Parties which have accepted it on the first day of the third month following the date on which two-thirds of the Parties have deposited an instrument of acceptance with the Depositary. For each Party which deposits an instrument of acceptance after the date on which two-thirds of the Parties have deposited an instrument of acceptance, the amendment shall enter into force for that Party on the first day of the third month following the deposit of its instrument of acceptance.

Article XI
Amendment of the Appendices

1. Appendices I and II may be amended at any ordinary or extraordinary meeting of the Conference of the Parties.

2. Proposals for amendment may be made by any Party.

3. The text of any proposed amendment and the reasons for it, based on the best scientific evidence available, shall be communicated to the Secretariat at least one hundred and fifty days before the meeting and shall promptly be communicated by the Secretariat to all Parties. Any comments on the text by the Parties shall be communicated to the Secretariat not less than sixty days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Parties all comments submitted by that day.

4. Amendments shall be adopted by a two-thirds majority of Parties present and voting.

5. An amendment to the Appendices shall enter into force for all Parties ninety days after the meeting of the Conference of the Parties at which it was adopted, except for those Parties which make a reservation in accordance with paragraph 6 of this Article.

6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may by notification in writing to the Depositary make a reservation with respect to the amendment. A reservation to an amendment may be withdrawn by written notification to the Depositary and thereupon the amendment shall enter into force for that Party ninety days after the reservation is withdrawn.

Article XII
Effect on International Conventions and Other Legislation

1. Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

2. The provisions of this Convention shall in no way affect the rights or obligations of any Party deriving from any existing treaty, convention or Agreement.

3. The provisions of this Convention shall in no way affect the right of Parties to adopt stricter domestic measures concerning the conservation of migratory species listed in Appendices I and II or to adopt domestic measures concerning the conservation of species not listed in Appendices I and II.

Article XIII
Settlement of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Convention shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

Article XIV
Reservations

1. The provisions of this Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Article XI.

2. Any State or regional economic integration organization may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to the presence on either Appendix I or Appendix II or both, of any migratory species and shall then not be regarded as a Party in regard to the subject of that reservation until ninety days after the Depositary has transmitted to the Parties notification that such reservation has been withdrawn.

Article XV
Signature

This Convention shall be open for signature at Bonn for all States and any regional economic integration organization until the twenty-second day of June, 1980.

Article XVI
Ratification, Acceptance, Approval

This Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Federal Republic of Germany, which shall be the Depositary.

Article XVII
Accession

After the twenty-second day of June 1980 this Convention shall be open for accession by all non-signatory States and any regional economic integration organization. Instruments of accession shall be deposited with the Depositary.

Article XVIII
Entry into Force

1. This Convention shall enter into force on the first day of the third month following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary.

2. For each State or each regional economic integration organization which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fifteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the third month following the deposit by such State or such organization of its instrument of ratification, acceptance, approval or accession.

Article XIX
Denunciation

Any Party may denounce this Convention by written notification to the Depositary at any time. The denunciation shall take effect twelve months after the Depositary has received the notification.

Article XX
Depositary

1. The original of this Convention, in the English, French, German, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary. The Depositary shall transmit certified copies of each of these versions to all States and all regional economic integration organizations that have signed the Convention or deposited instruments of accession to it.

2. The Depositary shall, after consultation with the Governments concerned, prepare official versions of the text of this Convention in the Arabic and Chinese languages.

3. The Depositary shall inform all signatory and acceding States and all signatory and acceding regional economic integration organizations and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of this Convention, amendments thereto, specific reservations and notifications of denunciation.

4. As soon as this Convention enters into force, a certified copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Bonn on 23 June 1979

APPENDIX I
OF THE CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS (CMS)

(as amended by the Conference of the Parties in 1985, 1988, 1991, 1994, 1997, 1999 and 2002)
Effective: 23 December 2002

Interpretation

1. Migratory species included in this Appendix are referred to:

a) by the name of the species or subspecies; or

b) as being all of the migratory species included in a higher taxon or designated part thereof.

2. Other references to taxa higher than species are for the purposes of information or classification only.

3. The abbreviation for *sensu lato* "(s.l.)" is used to denote that the scientific name is used in its extended meaning.

4. An asterisk (*) placed against the name of a species indicates that the species, or a separate population of that species, or a higher taxon which includes that species is included in Appendix II.

CHIROPTERA	**Mammalia**
Molossidae	*Tadarida brasiliensis*
PRIMATES	
Hominidae [1]	*Gorilla gorilla beringei*
CETACEA	
Physeteridae	*Physeter macrocephalus* *
Platanistidae	*Platanista gangetica gangetica* *
Pontoporiidae	*Pontoporia blainvillei* *
Balaenopteridae	*Balaenoptera borealis* *
	Balaenoptera physalus *
	Balaenoptera musculus
	Megaptera novaeangliae
Balaenidae	*Balaena mysticetus*
	Eubalaena glacialis [2] (North Atlantic)
	Eubalaena japonica [3] (North Pacific)
	Eubalaena australis [4]
CARNIVORA	
Mustelidae	*Lontra felina* [5]
	Lontra provocax [6]
Felidae	
	Uncia uncia [7]
Phocidae [8]	*Monachus monachus* *
SIRENIA	
Trichechidae	*Trichechus manatus* * (populations between Honduras and Panama)
PERISSODACTYLA	
Equidae	*Equus grevyi*
ARTIODACTYLA	
Camelidae	*Camelus bactrianus*
	Vicugna vicugna * (except Peruvian populations)
Cervidae	*Cervus elaphus barbarus*
	Hippocamelus bisulcus
Bovidae	*Bos sauveli*
	Bos grunniens
	Addax nasomaculatus
	Gazella cuvieri
	Gazella dama
	Gazella dorcas (only Northwest African populations)
	Gazella leptoceros
	Oryx dammah *
	Aves
SPHENISCIFORMES	
Spheniscidae	*Spheniscus humboldti*
PROCELLARIIFORMES	
Diomedeidae	*Diomedea albatrus*
	Diomedea amsterdamensis
Procellariidae	*Pterodroma cahow*
	Pterodroma phaeopygia
	Pterodroma sandwichensis [9]
	Puffinus creatopus
Pelecanoididae	*Pelecanoides garnotii*
PELECANIFORMES	
Pelecanidae	*Pelecanus crispus* *
	Pelecanus onocrotalus * (only Palearctic populations)
CICONIIFORMES	
Ardeidae	Egretta eulophotes
	Gorsachius goisagi
Ciconiidae	Ciconia boyciana
Threskiornithidae	Geronticus eremita *
	Platalea minor
PHOENICOPTERIFORMES	
Phoenicopteridae	*Phoenicopterus andinus* [10]
	Phoenicopterus jamesi [11]
ANSERIFORMES	
Anatidae	*Anser cygnoides* *
	Anser erythropus *
	Branta ruficollis *
	Chloephaga rubidiceps *
	Anas formosa *
	Marmaronetta angustirostris *
	Aythya nyroca *
	Polysticta stelleri *
	Oxyura leucocephala *
FALCONIFORMES	
Accipitridae	*Haliaeetus albicilla* *
	Haliaeetus leucoryphus *
	Haliaeetus pelagicus *
	Aquila clanga *
	Aquila heliaca *
	Aquila adalberti [12] *
Falconidae	*Falco naumanni* *
GRUIFORMES	
Gruidae	*Grus japonensis* *
	Grus leucogeranus *
	Grus monacha *
	Grus nigricollis *
	Grus vipio *
Rallidae	*Sarothrura ayresi* *
Otididae	*Chlamydotis undulata* * (only Northwest African populations)
	Otis tarda * (Middle-European population)
CHARADRIIFORMES	
Charadriidae	*Vanellus gregarius* [13] *
Scolopacidae	*Numenius borealis* *
	Numenius tenuirostris *
	Tringa guttifer *
	Eurynorhynchus pygmeus *
	Tryngites subruficollis *
Laridae	*Larus atlanticus*
	Larus audouinii *
	Larus leucophthalmus *
	Larus relictus
	Larus saundersi
	Sterna bernsteini
Alcidae	*Synthliboramphus wumizusume*
PSITTACIFORMES	
Psittacidae	*Brotogeris pyrrhopterus*
PASSERIFORMES	
Tyrannidae	*Alectrurus risora*
	Alectrurus tricolor
Hirundinidae	*Hirundo atrocaerulea* *
Muscicapidae	*Acrocephalus paludicola* *
Emberizidae	*Sporophila zelichi*
	Sporophila cinnamomea
	Sporophila hypochroma
	Sporophila palustris
Parulidae	*Dendroica kirtlandii*
Icteridae	*Agelaius flavus*
Fringillidae	*Serinus syriacus*
	Reptilia
TESTUDINATA	
Cheloniidae	*Chelonia mydas* *
	Caretta caretta *
	Eretmochelys imbricata *
	Lepidochelys kempii *
	Lepidochelys olivacea *
Dermochelyidae	*Dermochelys coriacea* *
Pelomedusidae	*Podocnemis expansa* * (only Upper Amazon populations)
CROCODYLIA	
Gavialidae	*Gavialis gangeticus*
	Pisces
Elasmobranchii	
LAMNIFORMES	
Lamnidae	*Carcharodon carcharias* *
Actinopterygii	

SILURIFORMES
Schilbeidae *Pangasianodon gigas*

1. Formerly listed as Pongidae
2. Formerly included in *Balaena glacialis glacialis*
3. Formerly included in *Balaena glacialis glacialis*
4. Formerly listed as *Balaena glacialis australis*
5. Formerly listed as *Lutra felina*
6. Formerly listed as *Lutra provocax*
7. Formerly listed as *Panthera uncia*
8. The order PINNIPEDIA is now included in the order CARNIVORA
9. Formerly included in *Pterodroma phaeopygia* (s.l.)
10. Formerly listed as *Phoenicoparrus andinus*
11. Formerly listed as *Phoenicoparrus jamesi*
12. Formerly included in *Aquila heliaca* (s.l.)
13. Formerly listed as *Chettusia gregaria*

APPENDIX II
OF THE CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS (CMS)

(as amended by the Conference of the Parties in 1985, 1988, 1991, 1994, 1997, 1999 and 2002)
Effective: 23 December 2002

Interpretation

1. Migratory species included in this Appendix are referred to:

a) by the name of the species or subspecies; or

b) as being all of the migratory species included in a higher taxon or designated part thereof.

Unless otherwise indicated, where reference is made to a taxon higher than species, it is understood that all the migratory species within that taxon could significantly benefit from the conclusion of AGREEMENTS.

2. The abbreviation "spp." following the name of a Family or Genus is used to denote all migratory species within that Family or Genus.

3. Other references to taxa higher than species are for the purposes of information or classification only.

4. The abbreviation "(s.l.)" is used to indicate that the scientific name is used in its extended meaning.

5. An asterisk (*) placed against the name of a species or higher taxon indicates that the species, or a separate population of that species, or one or more species included in that higher taxon is included in Appendix I.

Mammalia

CHIROPTERA
Rhinolophidae R. spp. (only European populations)
Vespertilionidae V. spp. (only European populations)
Molossidae *Tadarida teniotis*

CETACEA
Physeteridae *Physeter macrocephalus* *
Platanistidae *Platanista*
Pontoporiidae *Pontoporia*
gangetica gangetica * (1)
blainvillei *
Iniidae *Inia geoffrensis*
Monodontidae *Delphinapterus leucas*
Monodon monoceros
Phocoenidae *Phocoena phocoena* (North and Baltic Sea populations, western North Atlantic population, Black Sea population)
Phocoena spinipinnis
Phocoena dioptrica
Neophocaena phocaenoides
Phocoenoides dalli
Delphinidae *Sousa chinensis*
Sousa teuszii
Sotalia fluviatilis
Lagenorhynchus albirostris (only North and Baltic Sea populations)
Lagenorhynchus acutus (only North and Baltic Sea populations)
Lagenorhynchus obscurus
Lagenorhynchus australis
Lagenorhynchus Grampus
griseus (only North and Baltic Sea populations)
Tursiops aduncus (Arafura/Timor Sea populations)
Tursiops truncatus (North and Baltic Sea populations, western Mediterranean population, Black Sea population)
Stenella attenuata (eastern tropical Pacific population, Southeast Asian populations)
Stenella longirostris (eastern tropical Pacific Southeast Asian populations, *Stenella coeruleoalba* (eastern tropical Pacific population, Mediterranean western population)
Delphinus delphis (North and Baltic Sea populations, Mediterranean Sea population, eastern Pacific population)
Lagenodelphis hosei (Southeast Asian populations)
Orcaella brevirostris
Cephalorhynchus commersonii (South American population)
Cephalorhynchus eutropia
Cephalorhynchus

heavisidii *Orcinus orca*

Globicephala melas (only North and Baltic Sea populations)

Ziphiidae *Berardius bairdii*
Hyperoodon ampullatus
Balaenoptera edeni
Balaenoptera borealis *
Balaenoptera physalus *
Neobalaenidae *Caperea marginata*
CARNIVORA
Otariidae *Arctocephalus australis*
Otaria flavescens Phocidae *Phoca*
vitulina (only Baltic and Wadden Sea
populations) *Halichoerus grypus* (only
Baltic Sea populations)
Monachus monachus *

PROBOSCIDEA
Elephantidae *Loxodonta africana*
SIRENIA
Dugongidae *Dugong dugon*
Trichechidae *Trichechus manatus* *
(populations between Honduras and Panama)
Trichechus senegalensis

Trichechus inunguis
PERISSODACTYLA
Equidae *Equus hemionus* (s.l.)
ARTIODACTYLA
Camelidae *Vicugna vicugna* *
Bovidae *Oryx dammah* *
Gazella gazella (only Asian

populations)

Gazella subgutturosa
Procapra gutturosa *Saiga tatarica*
tatarica

Aves

SPHENISCIFORMES
Spheniscidae *Spheniscus demersus*
GAVIIFORMES
Gavidae *Gavia stellata* (Western
Palearctic populations) *Gavia arctica*
arctica *Gavia arctica*
suschkini *Gavia immer*
immer (Northwest European population)
Gavia adamsii (Western

Palearctic population) **PODICIPEDIFORMES**

Podicipedidae *Podiceps grisegena grisegena*
Podiceps auritus (Western Palearctic populations)
PROCELLARIIFORMES
Diomedeidae *Diomedea exulans*
Diomedea epomophora *Diomedea*
irrorata *Diomedea*
nigripes *Diomedea*
immutabilis *Diomedea*
melanophris *Diomedea*
bulleri *Diomedea cauta*
Diomedea
chlororhynchos *Diomedea chrysostoma*
Phoebetria fusca
Phoebetria palpebrata Procellaridae
Macronectes giganteus *Macronectes*
halli *Procellaria*
cinerea *Procellaria*
aequinoctialis [3] *Procellaria parkinsoni*
Procellaria westlandica

PELECANIFORMES
Phalacrocoracidae *Phalacrocorax nigrogularis*
Phalacrocorax pygmeus [4] Pelecanidae *Pelecanus*
onocrotalus * (Western
Palearctic populations) *Pelecanus crispus* *

CICONIIFORMES
Ardeidae *Botaurus stellaris stellaris*
(Western Palearctic populations)
Ixobrychus minutus minutus
(Western Palearctic populations)
Ixobrychus sturmii

Ardeola rufiventris

Ardeola idae
Egretta vinaceigula

Casmerodius albus albus
(Western Palearctic
populations) *Ardea purpurea*
purpurea (populations
breeding in the Western
Palearctic)
Ciconiidae *Mycteria ibis*
Ciconia nigra
Ciconia episcopus microscelis
Ciconia ciconia

Threskiornithidae *Plegadis falcinellus*

Geronticus eremita *

Threskiornis aethiopicus
aethiopicus

Platalea alba (excluding Malagasy population)

Platalea leucorodia

PHOENICOPTERIFORMES
Phoenicopteridae Ph. spp. *
ANSERIFORMES
Anatidae A. spp. *
FALCONIFORMES
Cathartidae C. spp.
Pandionidae *Pandion haliaetus*

Accipitridae A. spp. *
Falconidae F. spp. *
GALLIFORMES
Phasianidae *Coturnix coturnix coturnix*
GRUIFORMES

Rallidae *Porzana porzana* (populations breeding in the Western Palearctic)

Porzana parva parva

Porzana pusilla intermedia
Fulica atra atra
(Mediterranean and Black Sea
populations)
Aenigmatolimnas marginalis *Crex crex*

Sarothrura boehmi

Sarothrura ayresi *

Gruidae *Grus* spp.[5] *
Otididae *Chlamydotis undulata* *
(only Asian populations)

Otis tarda *

CHARADRIIFORMES
Recurvirostridae R. spp.
Dromadidae *Dromas ardeola*
Burhinidae *Burhinus oedicnemus*

Glareolidae *Glareola pratincola*

Glareola nordmanni

Charadriidae C. spp. *

Scolopacidae [6]	S. spp. *
Laridae [7]	*Larus hemprichii*
	Larus leucophthalmus *
	Larus ichthyaetus (West Eurasian and African population)
	Larus melanocephalus
	Larus genei
	Larus audouinii *
	Larus armenicus
	Sterna nilotica nilotica (West Eurasian and African populations)
	Sterna caspia (West Eurasian African
and populations)	
	Sterna maxima albidorsalis
	Sterna bergii (African
and	Southwest
Asian populations)	*Sterna*
bengalensis (African and	Southwest Asian
populations)	*Sterna sandvicensis*
sandvicensis	*Sterna dougallii*
(Atlantic	population)
	Sterna hirundo hirundo (populations breeding in the Western Palearctic)
	Sterna paradisaea (Atlantic populations)
	Sterna albifrons
	Sterna saundersi
	Sterna balaenarum
	Sterna repressa
	Chlidonias niger niger
	Chlidonias leucopterus (West Eurasian and African
population)	
COLUMBIFORMES	
Columbidae	*Streptopelia turtur turtur*
PSITTACIFORMES	
Psittacidae	*Amazona tucumana*
CORACIIFORMES	
Meropidae	*Merops apiaster*
Coraciidae	*Coracias garrulus*
PASSERIFORMES	
Muscicapidae	M. (s.l.) spp.[8] *
Hirundinidae	*Hirundo atrocaerulea* *
Tyrannidae	*Pseudocolopteryx dinellianus*
	Polystictus pectoralis pectoralis
Emberizidae	*Sporophila ruficollis*
	Reptilia
TESTUDINATA	
Cheloniidae	C. spp. *
Dermochelyidae	D. spp. *
Pelomedusidae	*Podocnemis expansa* *
CROCODYLIA	
Crocodylidae	*Crocodylus porosus*
	Pisces
Elasmobranchii	
ORECTOLOBIFORMES	
Rhincodontidae	*Rhincodon typus*
LAMNIFORMES	
Lamnidae	*Carcharodon carcharias* *
Actinopterygii	
ACIPENSERIFORMES	
Acipenseridae	*Huso huso*
	Huso dauricus
	Acipenser baerii baicalensis
	Acipenser fulvescens
	Acipenser gueldenstaedtii
	Acipenser medirostris
	Acipenser mikadoi
	Acipenser naccarii
	Acipenser nudiventris
	Acipenser persicus
	Acipenser ruthenus (Danube population)
	Acipenser schrenckii
	Acipenser sinensis
	Acipenser stellatus
	Acipenser sturio
	Pseudoscaphirhynchus kaufmanni
	Pseudoscaphirhynchus hermanni
	Pseudoscaphirhynchus fedtschenkoi
	Psephurus gladius
	Insecta
LEPIDOPTERA	
Danaidae	*Danaus plexippus*

1. Formerly listed as *Platanista gangetica*
2. The listed taxon refers to the whole complex "Equus hemionus", which includes three species: *Equus hemionus, Equus onager* and *Equus kiang*
3. This includes *Procellaria aequinoctialis conspicillata,* originally listed as *Procellaria conspicillata*
4. Formerly listed as *Phalacrocorax pygmaeus*
5. This includes *Grus virgo,* formerly listed as *Anthropoides virgo*
6. This includes the sub-family Phalaropodinae, formerly listed as the family Phalaropodidae
7. The family Sternidae is now included in Laridae
8. This includes the sub-family Sylviinae, formerly listed as the family Sylviidae

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Several Agreements have been concluded to date under the auspices of CMS:

- Agreement on the Conservation of Populations of European Bats
- Agreement on the Conservation Cetaceans of the Mediterranean Sea, Black Sea and Contiguous
- Atlantic Area
- Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas
- Agreement on the Conservation of Seals in the Wadden Sea
- Agreement on the Conservation of the African-Eurasian Migratory Waterbirds
- Agreement on the Conservation of Albatrosses and Petrels

In addition, several Memoranda of Understanding have been concluded under the auspices of CMS:

- Memorandum of Understanding Concerning Conservation Measures for the Siberian Crane
- Memorandum of Understanding Concerning Conservation Measures for the Slender-billed Curlew
- Memorandum of Understanding Concerning Conservation Measures for Marine Turtles of the
- Atlantic Coast of Africa
- Memorandum of Understanding on the Conservation and Management of Marine Turtles and Their Habitats of the Indian Ocean and South-East Asia
- Memorandum of Understanding on the Conservation and Management of the Middle-European Population of the Great Bustard
- Memorandum of Understanding Concerning Conservation and Restoration of the Bukhara Dear
- Memorandum of Understanding Concerning Conservation Measures for the Aquatic Marbler

25. CONVENTION CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT (NO. 155)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

Adopts the twenty-second day of June of the year one thousand nine hundred and eighty-one, the following Convention, which may be cited as the Occupational Safety and Health Convention, 1981:

PART I
SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all branches of economic activity.

2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.

3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.

2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.

3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall 400 indicate in subsequent reports any progress towards wider application.

Article 3

For the purpose of this Convention-

(a) the term *branches of economic activity* covers all branches in which workers are employed, including the public service;

(b) the term *workers* covers all employed persons, including public employees;

(c) the term *workplace* covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;

(d) the term *regulations* covers all provisions given force of law by the competent authority or authorities;

(e) the term *health* , in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

PART II
PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of 1400 national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Article 5

The policy referred to in Article 4 of this Convention shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:

(a) design, testing, choice, substitution, installation,

arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);

(b) relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers;

(c) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;

(d) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level;

(e) the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of this Convention.

Article 6

The formulation of the policy referred to in Article 4 of this Convention shall indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice.

Article 7

The situation regarding occupational safety and health and the working environment shall be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

Part III.
ACTION AT THE NATIONAL LEVEL

Article 8

Each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organisations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4 of this Convention.

Article 9

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.

2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.

Article 10

Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.

Article 11

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

(a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;

(b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;

(c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;

(d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;

(e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which a 1400 rise in the course of or in connection with work;

(f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

Article 12

Measures shall be taken, in accordance with national law and practice, with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use:

(a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;

(b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how hazards are to be avoided;

(c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

Article 13

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

Article 14

Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

Article 15

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.

2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

PART IV
ACTION AT THE LEVEL OF THE UNDERTAKING

Article 16

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far is reasonably practicable, risk of accidents or of adverse effects on health.

Article 17

Whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention.

Article 18

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements.

Article 19

There shall be arrangements at the level of the undertaking under which:

(a) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;

(b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;

(c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;

(d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;

(e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;

(f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has 1400 taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Article 20

Co-operation between management and workers and/

or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

Article 21

Occupational safety and health measures shall not involve any expenditure for the workers.

PART V
FINAL PROVISIONS

Article 22

This Convention does not revise any international labour Conventions or Recommendations.

Article 23

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 24

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 25

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 26

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 27

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 28

At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 29

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 25 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 30

The English and French versions of the text of this Convention are equally authoritative.

26. VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER

PREAMBLE

The Parties to this Convention,

Aware of the potentially harmful impact on human health and the environment through modification of the ozone layer,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other
States or of areas beyond the limits of national jurisdiction",

Taking into account the circumstances and particular requirements of developing countries,

Mindful of the work and studies proceeding within both international and national organizations and, in particular, of the World Plan of Action on the Ozone Layer of the United Nations Environment Programme,

Mindful also of the precautionary measures for the protection of the ozone layer which have already been taken at the national and international levels,

Aware that measures to protect the ozone layer from modifications due to human activities require international co-operation and action, and should be based on relevant scientific and technical considerations,

Aware also of the need for further research and systematic observations to further develop scientific knowledge of the ozone layer and possible adverse effects resulting from its modification,

Determined to protect human health and the environment against adverse effects resulting from modifications of the ozone layer,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Convention:

1. "The ozone layer" means the layer of atmospheric ozone above the planetary boundary layer.

2. "Adverse effects" means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.

3. "Alternative technologies or equipment" means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.

4. "Alternative substances" means substances which reduce, eliminate or avoid adverse effects on the ozone layer.

5. "Parties" means, unless the text otherwise indicates, Parties to this Convention.

6. "Regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

7. "Protocols" means protocols to this Convention.

Article 2
General obligations

1. The Parties shall take appropriate measures in accordance with the provisions of this Convention and of those protocols in force to which they are party to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.

2. To this end the Parties shall, in accordance with the means at their disposal and their capabilities:

(a) Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer;

(b) Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;

(c) Co-operate in the formulation of agreed measures, procedures and standards for the implementation

of this Convention, with a view to the adoption of protocols and annexes;

(d) Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.

3. The provisions of this Convention shall in no way affect the right of Parties to adopt, in accordance with international law, domestic measures additional to those referred to in paragraphs 1 and 2 above, nor shall they affect additional domestic measures already taken by a Party, provided that these measures are not incompatible with their obligations under this Convention.

4. The application of this article shall be based on relevant scientific and technical considerations.

Article 3
Research and systematic observations

1. The Parties undertake, as appropriate, to initiate and co-operate in, directly or through competent international bodies, the conduct of research and scientific assessments on:

(a) The physical and chemical processes that may affect the ozone layer;

(b) The human health and other biological effects deriving from any modifications of the ozone layer, particularly those resulting from changes in ultra-violet solar radiation having biological effects (UV-B);

(c) Climatic effects deriving from any modifications of the ozone layer;

(d) Effects deriving from any modifications of the ozone layer and any consequent change in UV-B radiation on natural and synthetic materials useful to mankind;

(e) Substances, practices, processes and activities that may affect the ozone layer, and their cumulative effects;

(f) Alternative substances and technologies;

(g) Related socio-economic matters;

and as further elaborated in annexes I and II.

2. The Parties undertake to promote or establish, as appropriate, directly or through competent international bodies and taking fully into account national legislation and relevant ongoing activities at both the national and international levels, joint or complementary programmes for systematic observation of the state of the ozone layer and other relevant parameters, as elaborated in annex I.

3. The Parties undertake to co-operate, directly or through competent international bodies, in ensuring the collection, validation and transmission of research and observational data through appropriate world data centres in a regular and timely fashion.

Article 4
Co-operation in the legal, scientificand technical fields

1. The Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this Convention as further elaborated in annex II. Such information shall be supplied to bodies agreed upon by the Parties. Any such body receiving information regarded as confidential by the supplying Party shall ensure that such information is not disclosed and shall aggregate it to protect its confidentiality before it is made available to all Parties.

2. The Parties shall cooperate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, the development and transfer of technology and knowledge. Such cooperation shall be carried out particularly through:

(a) Facilitation of the acquisition of alternative technologies by other Parties;

(b) Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;

(c) The supply of necessary equipment and facilities for research and systematic observations;

(d) Appropriate training of scientific and technical personnel.

Article 5
Transmission of information

The Parties shall transmit, through the secretariat, to the Conference of the Parties established under article 6 information on the measures adopted by them in implementation of this Convention and of protocols to which they are party in such form and at such intervals as the meetings of the parties to the relevant instruments may determine.

Article 6
Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the secretariat designated on an interim basis under article 7 not later than one year after entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure and financial rules for itself and for any subsidiary bodies it may establish, as well as financial provisions governing the functioning of the secretariat.

4. The Conference of the Parties shall keep under continuous review the implementation of this Convention, and, in addition, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with article 5 and consider such information as well as reports submitted by any subsidiary body;

(b) Review the scientific information on the ozone layer, on its possible modification and on possible effects of any such modification;

(c) Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make recommendations on any other measures relating to this Convention;

(d) Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;

(e) Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this Convention and its annexes;

(f) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

(g) Consider and adopt, as required, in accordance with article 10, additional annexes to this Convention;

(h) Consider and adopt, as required, protocols in accordance with article 8;

(i) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention;

(j) Seek, where appropriate, the services of competent international bodies and scientific committees, in particular the World Meteorological Organization and the World Health Organization as well as the Co-ordinating Committee on the Ozone Layer, in scientific research, systematic observations and other activities pertinent to the objectives of this Convention, and make use as appropriate of information from these bodies and committees;

(k) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Convention, may be represented at meetings of the Conference of the Parties by observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 7
Secretariat

1. The functions of the secretariat shall be:

(a) To arrange for and service meetings provided for in articles 6, 8, 9 and 10;

(b) To prepare and transmit reports based upon information received in accordance with articles 4 and 5, as well as upon information derived from meetings of subsidiary bodies established under article 6;

(c) To perform the functions assigned to it by any protocol;

(d) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

(e) To ensure the necessary co-ordination with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(f) To perform such other functions as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by the United Nations Environment Programme until the completion of the first ordinary meeting of the Conference of the Parties held pursuant to article 6. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 8
Adoption of protocols

1. The Conference of the Parties may at a meeting adopt protocols pursuant to Article 2.

2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a meeting.

Article 9
Amendment of the Convention or protocols

1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, *inter alia,* of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Ratification, approval or acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

6. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 10
Adoption and amendment of annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 3, while annexes to any protocol shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 4;

(b) Any party that is unable to approve an additional annex to this Convention or annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes

to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, *inter alia*, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

Article 11
Settlement of disputes

1. In the event of a dispute between Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties at its first ordinary meeting;

(a) Submission of the dispute to the International Court of Justice.

4. If the parties have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with paragraph 5 below unless the parties otherwise agree.

5. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a final and recommendatory award, which the parties shall consider in good faith.

6. The provisions of this Article shall apply with respect to any protocol except as provided in the protocol concerned.

Article 12
Signature

This Convention shall be open for signature by States and by regional economic integration organizations at the Federal Ministry for Foreign Affairs of the Republic of Austria in Vienna from 22 March 1985 to 21 September 1985, and at United Nations Headquarters in New York from 22 September 1985 to 21 March 1986.

Article 13
Ratification, acceptance or approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention or any protocol without any of its member States being a Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligation under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

Article 14
Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of article 13, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

Article 15
Right to vote

1. Each Party to this Convention or to any protocol shall have one vote.

2. Except as provided for in paragraph 1 above, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 16
Relationship between the Convention and its protocols

1. A State or a regional economic integration organization may not become a party to a protocol unless it is, or becomes at the same time, a Party to the Convention.

2. Decisions concerning any protocol shall be taken only by the parties to the protocol concerned.

Article 17
Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, approval or accession.

2. Any protocol, except as otherwise provided in such protocol, shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance or approval of such protocol or accession thereto.

3. For each Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that party deposits its instrument of ratification, acceptance, approval or accession, or on the date which the Convention enters into force for that Party, whichever shall be the later.

5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 18
Reservations

No reservations may be made to this Convention.

Article 19
Withdrawal

1. At any time after four years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Except as may be provided in any protocol, at any time after four years from the date on which such protocol has entered into force for a party, that party may withdraw from the protocol by giving written notification to the Depositary.

3. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

4. Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which itis party.

Article 20
Depositary

1. The Secretary-General of the United Nations shall assume the functions of depositary of this Convention and any protocols.

2. The Depositary shall inform the Parties, in particular, of:

(a) The signature of this Convention and of any protocol, and the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 13 and 14;

(b) The date on which the Convention and any protocol will come into force in accordance with article 17;

(c) Notifications of withdrawal made in accordance with article 19;

(d) Amendments adopted with respect to the Convention and any protocol, their acceptance by the parties and their date of entry into force in accordance with article 9;

(e) All communications relating to the adoption and approval of annexes and to the amendment of annexes in accordance with article 10;

(f) Notifications by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention and any protocols, and of any modifications thereof;

(g) Declarations made in accordance with article 11, paragraph 3.

Article 21
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Vienna on the 22nd day of March 1985.

ANNEX I
RESEARCH AND SYSTEMATIC OBSERVATIONS

1. The Parties to the Convention recognize that the major scientific issues are:

(a) Modification of the ozone layer which would result in a change in the amount of solar ultra-violet radiation having biological effects (UV-B) that reaches the Earth's surface and the potential consequences for human health, for organisms, ecosystems and materials useful to mankind;

(b) Modification of the vertical distribution of ozone, which could change the temperature structure of the atmosphere and the potential consequences for weather and climate.

2. The Parties to the Convention, in accordance with article 3, shall co-operate in conducting research and systematic observations and in formulating recommendations for future research and observation in such areas as:

(a) *Research into the physics and chemistry of the atmosphere*

(i) Comprehensive theoretical models: further development of models which consider the interaction between radiative, dynamic and chemical processes; studies of the simultaneous effects of various man-made and naturally occurring species upon atmospheric ozone; interpretation of satellite and non-satellite measurement data sets; evaluation of trends in atmospheric and geophysical parameters, and the development of methods for attributing changes in these parameters to specific causes;

(ii) Laboratory studies of: rate coefficients, absorption cross-sections and mechanisms of tropospheric and stratospheric chemical and photochemical processes; spectroscopic data to support field measurements in all relevant spectral regions;

(iii) Field measurements: the concentration and fluxes of key source gases of both natural and anthropogenic origin; atmospheric dynamics studies; simultaneous measurements of photochemically-related species down to the planetary boundary layer, using *in situ* and remote sensing instruments; intercomparison of different sensors, including co-ordinated correlative measures for satellite instrumentation; three-dimensional fields of key atmospheric trace constituents, solar spectral flux and meteorological parameters;

(iv) Instrument development, including satellite and non-satellite sensors for atmospheric trace constituents, solar flux and meteorological parameters;

(b) *Research into health, biological and photodegradation effects*

(i) The relationship between human exposure to visible and ultra-violet solar radiation and (a) the development of both non-melanoma and melanoma skin cancer and (b) the effects on the immunological system;

(ii) Effects of UV-B radiation, including the wavelength dependence, upon (a) agricultural crops, forests and other terrestrial ecosystems and (b) the aquatic food web and fisheries, as well as possible inhibition of oxygen production by marine phytoplankton;

(iii) The mechanisms by which UV-B radiation acts on biological materials, species and ecosystems, including: the relationship between dose, dose rate, and response; photorepair, adaptation, and protection;

(iv) Studies of biological action spectra and the spectral response using polychromatic radiation in order to include possible interactions of the various wavelength regions;

(v) The influence of UV-B radiation on: the sensitivities and activities of biological species important to the biospheric balance; primary processes such as photosynthesis and biosynthesis;

(vi) The influence of UV-B radiation on the photodegradation of pollutants, agricultural chemicals and other materials;

(c) *Research on effects on climate*

(i) Theoretical and observational studies of the radiative effects of ozone and other trace species and the impact on climate

parameters, such as land and ocean surface temperatures, precipitation patterns, the exchange between the troposphere and stratosphere;

(ii) The investigation of the effects of such climate impacts on various aspects of human activity;

(d) *Systematic observation on:*

(i) The status of the ozone layer (i.e. the spatial and temporal variability of the total column content and vertical distribution) by making the Global Ozone Observing System, based on the integration of satellite and ground-based systems, fully operational;

(ii) The tropospheric and stratospheric concentrations of source gases for the HOX, NOX, ClOX and carbon families;

(iii) The temperature from the ground to the mesosphere, utilizing both ground-based and satellite systems;

(iv) Wavelength-resolved solar flux reaching, and thermal radiation leaving, the Earth's atmosphere, utilizing satellite measurements;

(v) Wavelength-resolved solar flux reaching the Earth's surface in the ultra-violet range having biological effects (UV-B);

(vi) Aerosol properties and distribution from the ground to the mesosphere, utilizing ground-based, airborne and satellite systems;

(vii) Climatically important variables by the maintenance of programmes of high-quality meteorological surface measurements;

(viii) Trace species, temperatures, solar flux and aerosols utilizing improved methods for analyzing global data.

3. The Parties to the Convention shall co-operate, taking into account the particular needs of the developing countries, in promoting the appropriate scientific and technical training required to participate in the research and systematic observations outlined in this annex. Particular emphasis should be given to the intercalibration of observational instrumentation and methods with a view to generating comparable or standardized scientific data sets.

4. The following chemical substances of natural and anthropogenic origin, not listed in order of priority, are thought to have the potential to modify the chemical and physical properties of the ozone layer.

(a) Carbon substances

(i) *Carbon monoxide (CO)*
Carbon monoxide has significant natural and anthropogenic sources, and is thought to play a major direct role in tropospheric photochemistry, and an indirect role in stratospheric photochemistry.

(ii) *Carbon dioxide (CO2)*
Carbon dioxide has significant natural and anthropogenic sources, and affects stratospheric ozone by influencing the thermal structure of the atmosphere.

(iii) *Methane (CH4)*
Methane has both natural and anthropogenic sources, and affects both tropospheric and stratospheric ozone.

(iv) *Non-methane hydrocarbon species*
Non-methane hydrocarbon species, which consist of a large number of chemical substances, have both natural and anthropogenic sources, and play a direct role in tropospheric photochemistry and an indirect role in stratospheric photochemistry.

(b) Nitrogen substances

(i) *Nitrous oxide (N2O)*
The dominant sources of N2O are natural, but anthropogenic contributions are becoming increasingly important. Nitrous oxide is the primary source of stratospheric NOX, which play a vital role in controlling the abundance of stratospheric ozone.

(ii) *Nitrogen oxides (NOX)*
Ground-level sources of NOX play a major direct role only in tropospheric photochemical processes and an indirect role in stratosphere photochemistry, whereas injection of NOX close to the tropopause may lead directly to a change in upper tropospheric and stratospheric ozone.

(c) Chlorine substances

(i) *Fully halogenated alkanes, e.g. CCl4, CFCl3 (CFC–11), CF2Cl2 (CFC–12), C2F3Cl3 (CFC–113), C2F4Cl2 (CFC–1 14)*
Fully halogenated alkanes are anthropogenic and act as a source of ClOX which plays a vital role in ozone photochemistry, especially in the 30–50 km altitude region.

(ii) *Partially halogenated alkanes, e.g. CH3Cl, CHF2Cl (CFC–22), CH3CCl3, CHFCl2 (CFC–21)*
The sources of CH3Cl are natural, whereas the other partially halogenated alkanes mentioned above are anthropogenic in origin. These gases also act as a source of stratospheric ClOX.

(d) Bromine substances

Fully halogenated alkanes, e.g. CF3Br
These gases are anthropogenic and act as a source of BrOX, which behaves in a manner similar to ClOX.

(e) Hydrogen substances

(i) *Hydrogen (H2)*
Hydrogen, the source of which is natural and anthropogenic, plays a minor role in stratospheric photochemistry.

(ii) *Water (H2O).*
Water, the source of which is natural, plays a vital role in both tropospheric and stratospheric photochemistry. Local sources of water vapor in the stratosphere include the oxidation of methane and, to a lesser extent, of hydrogen.

ANNEX II
INFORMATION EXCHANGE

1. The Parties to the Convention recognize that the collection and sharing of information is an important means of implementing the objectives of this Convention and of assuring that any actions that may be taken are appropriate and equitable. Therefore, Parties shall exchange scientific, technical, socio-economic, business, commercial and legal information.

2. The Parties to the Convention, in deciding what information is to be collected and exchanged, should take into account the usefulness of the information and the costs of obtaining it. The Parties further recognize that co-operation under this annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets, and protection of confidential and proprietary information.

3. *Scientific information*

This includes information on:

(a) Planned and ongoing research, both governmental and private, to facilitate the co-ordination of research programmes so as to make the most effective use of available national and international resources;

(b) The emission data needed for research;

(c) Scientific results published in peer-reviewed literature on the understanding of the physics and chemistry of the Earth's atmosphere and of its susceptibility to change, in particular on the state of the ozone layer and effects on human health, environment and climate which would result from changes on all time-scales in either the total column content or the vertical distribution of ozone;

(d) The assessment of research results and the recommendation for future research.

4. *Technical information*

This includes information on:

(a) The availability and cost of chemical substitutes and of alternative technologies to reduce the emissions of ozone-modifying substances and related planned and ongoing research;

(b) The limitations and any risks involved in using chemical or other substitutes and alternative technologies.

5. *Socio-economic and commercial information on the substances referred to in annex I*

This includes information on:

(a) Production and production capacity;

(b) Use and use patterns;

(c) Imports/exports;

(d) The costs, risks and benefits of human activities which may indirectly modify the ozone layer and of the impacts of regulatory actions taken or being considered to control these activities.

6. *Legal information*

This includes information on:

(a) National laws, administrative measures and legal research relevant to the protection of the ozone layer;

(b) International agreements, including bilateral agreements, relevant to the protection of the ozone layer;

(c) Methods and terms of licensing and availability of patents relevant to the protection of the ozone layer.

27. MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

(As either adjusted and/or amended in London 1990, Copenhagen 1992, Vienna 1995, Montreal 1997 and Beijing 1999)

PREAMBLE

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental needs of developing countries,

Acknowledging that special provision is required to meet the needs of developing countries, including the provision of additional financial resources and access to relevant technologies, bearing in mind that the magnitude of funds necessary is predictable, and the funds can be expected to make a substantial difference in the world's ability to address the scientifically established problem of ozone depletion and its harmful effects,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research, development and transfer of alternative technologies relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985.

2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol.

3. "Secretariat" means the Secretariat of the Convention.

4. "Controlled substance" means a substance in Annex A, Annex B, Annex C or Annex E to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as specified in the relevant Annex, but excludes any controlled substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.

5. "Production" means the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties and minus the amount entirely used as feedstock in the manufacture of other chemicals. The amount recycled and reused is not to be considered as "production".

6. "Consumption" means production plus imports minus exports of controlled substances.

7. "Calculated levels" of production, imports, exports and consumption means levels determined in accordance with Article 3.

8. "Industrial rationalization" means the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

Article 2
Control Measures

1. *Incorporated in Article 2A.*

2. *Replaced by Article 2B.*

3. *Replaced by Article 2A.*

4. *Replaced by Article 2A.*

5. Any Party may, for one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2F, and Article 2H, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substances do not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.

5 *bis*. Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F, provided that the calculated level of consumption of controlled substances in Group I of Annex A of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.

6. Any Party not operating under Article 5, that has facilities for the production of Annex A or Annex B controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1987, may add the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party's annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.

7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the Secretariat, no later than the time of the transfer or addition.

8.(a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1 (6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article and Articles 2A to 2I provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2I.

(b) The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.

(c) Such agreement will become operative only if all Member States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the Secretariat of their manner of implementation.

9(a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:

(i) Adjustments to the ozone depleting potentials specified in Annex A, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be; and

(ii) Further adjustments and reductions of production or consumption of the controlled substances should be undertaken and, if so, what the scope, amount and timing of any such adjustments and reductions should be;

(b) Proposals for such adjustments shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Parties at which they are proposed for adoption;

(c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting representing a majority of the Parties operating under Paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting;

(d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.

10. Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:

(a) whether any substances, and if so which, should be added to or removed from any annex to this Protocol, and

(b) the mechanism, scope and timing of the control measures that should apply to those substances;

11. Notwithstanding the provisions contained in this Article and Articles 2A to 2I Parties may take more stringent measures than those required by this Article and Articles 2A to 2I.

Article 2A
CFCs

1. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in 1986. By the end of the same period, each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.

2. Each Party shall ensure that for the period from 1 July 1991 to 31 December 1992 its calculated levels of consumption and production of the controlled substances in Group I of Annex A do not exceed 150 per cent of its calculated levels of production and consumption of those substances in 1986; with effect from 1 January 1993, the twelve-month control period for these controlled substances shall run from 1 January to 31 December each year.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group I of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

7. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

8. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

9. For the purposes of calculating basic domestic needs under paragraphs 4 to 8 of this Article, the calculation of the annual average of production by a Party includes any production entitlements that it has transferred in accordance with paragraph 5 of Article 2, and excludes any production entitlements that it has acquired in accordance with paragraph 5 of Article 2.

Article 2B
Halons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1992, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed, annually, its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same

periods, ensure that its calculated level of production of the substances does not exceed, annually, its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1986; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Article 2C
Other fully halogenated CFCs

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, eighty per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same period, ensure that its calculated level of production of the substances does not exceed, annually, eighty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2003 exceed that limit by up to fifteen per cent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to eighty per cent of the annual average of its production of the controlled substances in Group I of Annex B for basic domestic needs for the period 1998 to 2000 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Article 2D
Carbon tetrachloride

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed, annually, fifteen per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, fifteen per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1989. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 2E
1,1,1-Trichloroethane (Methyl chloroform)

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, fifty per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production for 1989. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 2F
Hydrochlorofluorocarbons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, the sum of:

(a) Two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

(b) Its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C.

2. Each Party shall ensure that for the twelve month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the sum referred to in paragraph 1 of this Article.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, thirty-five per cent of the sum referred to in paragraph 1 of this Article.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the sum referred to in paragraph 1 of this Article.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I

of Annex C does not exceed annually, zero point five per cent of the sum referred to in paragraph 1 of this Article. Such consumption shall, however, be restricted to the servicing of refrigeration and air conditioning equipment existing at that date.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2030, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero.

7. As of 1 January 1996, each Party shall endeavour to ensure that:

(a) The use of controlled substances in Group I of Annex C is limited to those applications where other more environmentally suitable alternative substances or technologies are not available;

(b) The use of controlled substances in Group I of Annex C is not outside the areas of application currently met by controlled substances in Annexes A, B and C, except in rare cases for the protection of human life or human health; and

(c) Controlled substances in Group I of Annex C are selected for use in a manner that minimizes ozone depletion, in addition to meeting other environmental, safety and economic considerations.

8. Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of:

(a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

(b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

Article 2G
Hydrobromofluorocarbons

Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex C does not exceed zero. Each Party producing the substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 2H
Methyl bromide

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, its calculated level of consumption in 1991. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E

does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses.

5 *bis*. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive.

5 *ter*. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

6.The calculated levels of consumption and production under this Article shall not include the amounts used by the Party for quarantine and pre-shipment applications. Article 2I: Bromochloromethane.

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group III of Annex C does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 3
Calculation of control levels

For the purposes of Articles 2, 2A to 2I and 5, each Party shall, for each group of substances in Annex A, Annex B, Annex C or Annex E determine its calculated levels of:

(a) Production by:
(i) multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex *A,* Annex B, Annex C or Annex E;
(ii) adding together, for each such Group, the resulting figures;

(b) Imports and exports, respectively, by following, *mutatis mutandi*s, the procedure set out in subparagraph (a); and

(c) Consumption by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b). However, beginning on 1 January 1993, any export of controlled substances to non-Parties shall not be subtracted in calculating the consumption level of the exporting Party.

Article 4
Control of trade with non-Parties

1. As of 1 January 1990, each party shall ban the import of the controlled substances in Annex A from any State not party to this Protocol.

1 *bis.* Within one year of the date of the entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex B from any State not party to this Protocol.

1 *ter.* Within one year of the date of entry into force of this paragraph, each Party shall ban the import of any controlled substances in Group II of Annex C from any State not party to this Protocol.

1 *qua*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Annex E from any State not party to this Protocol.

1 *quin.*As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.

1 *sex.* Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.

2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol.

2 *bis.* Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Annex B to any State not party to this Protocol.

2 *ter*. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Group II of Annex C to any State not party to this Protocol.

2 *qua*. Commencing one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.

2 *quin*.As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.

2 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.

3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 *bis.* Within three years of the date of the entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex B. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 *ter.* Within three years of the date of entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Group II of Annex C. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 *bis.* Within five years of the date of the entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex B. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 *te*r. Within five years of the date of entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Group II of Annex C. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.

6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.

7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.

8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 *ter* of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2I and this

Article, and have submitted data to that effect as specified in Article 7.

9. For the purposes of this Article, the term "State not party to this Protocol" shall include, with respect to a particular controlled substance, a State or regional economic integration organization that has not agreed to be bound by the control measures in effect for that substance.

10. By 1 January 1996, the Parties shall consider whether to amend this Protocol in order to extend the measures in this Article to trade in controlled substances in Group I of Annex C and in Annex E with States not party to the Protocol.

Article 4A
Control of trade with Parties

1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.

2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.

Article 4B
Licensing

1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.

3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.

4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

Article 5
Special situation of developing countries

1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date of the entry into force of the Protocol for it, or any time thereafter until 1 January 1999, shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures set out in Articles 2A to 2*E,* provided that any further amendments to the adjustments or Amendment adopted at the Second Meeting of the Parties in London, 29 June 1990, shall apply to the Parties operating under this paragraph after the review provided for in paragraph 8 of this Article has taken place and shall be based on the conclusions of that review.

1 *bis.* The Parties shall, taking into account the review referred to in paragraph 8 of this Article, the assessments made pursuant to Article 6 and any other relevant information, decide by 1 January 1996, through the procedure set forth in paragraph 9 of Article 2:

(a) With respect to paragraphs 1 to 6 of Article 2F, what base year, initial levels, control schedules and phase-out date for consumption of the controlled substances in Group I of Annex C will apply to Parties operating under paragraph 1 of this Article;

(b) With respect to Article 2G, what phase-out date for production and consumption of the controlled substances in Group II of Annex C will apply to Parties operating under paragraph 1 of this Article; and

(c) With respect to Article 2H, what base year, initial levels and control schedules for consumption and production of the controlled substance in Annex E will apply to Parties operating under paragraph 1 of this Article.

2. However, any Party operating under paragraph 1 of this Article shall exceed neither an annual calculated level of consumption of the controlled substances in Annex A of 0.3 kilograms per capita nor an annual calculated level of consumption of controlled substances of Annex B of 0.2 kilograms per capita.

3. When implementing the control measures set out in Articles 2A to 2E, any Party operating under paragraph 1 of this Article shall be entitled to use:

(a) For controlled substances under Annex A, either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.

(b) For controlled substances under Annex B, the average of its annual calculated level of consumption for the period 1998 to 2000 inclusive or a calculated level of consumption of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.

(c) For controlled substances under Annex A, either the average of its annual calculated level of production for the period 1995 to 1997 inclusive or a calculated level of production of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

(d) For controlled substances under Annex B, either the average of its annual calculated level of production for the period 1998 to 2000 inclusive or a calculated level of production of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2I become applicable to it, finds itself unable to obtain an adequate supply of controlled substances, it may notify this to the Secretariat. The Secretariat shall forthwith transmit a copy of such notification to the Parties, which shall consider the matter at their next Meeting, and decide upon appropriate action to be taken.

5. Developing the capacity to fulfil the obligations of the Parties operating under paragraph 1 of this Article to comply with the control measures set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, and their implementation by those same Parties will depend upon the effective implementation of the financial co-operation as provided by Article 10 and the transfer of technology as provided by Article 10A.

6. Any Party operating under paragraph 1 of this Article may, at any time, notify the Secretariat in writing that, having taken all practicable steps it is unable to implement any or all of the obligations laid down in Articles 2A to 2E and Article 2I, or any or all obligations in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, due to the inadequate implementation of Articles 10 and 10A. The Secretariat shall forthwith transmit a copy of the notification to the Parties, which shall consider the matter at their next Meeting, giving due recognition to paragraph 5 of this Article and shall decide upon appropriate action to be taken.

7. During the period between notification and the Meeting of the Parties at which the appropriate action referred to in paragraph 6 above is to be decided, or for a further period if the Meeting of the Parties so decides, the non-compliance procedures referred to in Article 8 shall not be invoked against the notifying Party.

8. A Meeting of the Parties shall review, not later than 1995, the situation of the Parties operating under paragraph 1 of this Article, including the effective implementation of financial co-operation and transfer of technology to them, and adopt such revisions that may be deemed necessary regarding the schedule of control measures applicable to those Parties.

8 *bis.* Based on the conclusions of the review referred to in paragraph 8 above:

(a) With respect to the controlled substances in Annex A, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2A and 2B shall be read accordingly;

(b) With respect to the controlled substances in Annex B, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2C to 2E shall be read accordingly.

8 *ter.* Pursuant to paragraph 1 *bis* above:

(a) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2016, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of consumption in 2015. As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015;

(b) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2040, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero;

(c) Each Party operating under paragraph 1 of this Article shall comply with Article 2G;

(d) With regard to the controlled substance contained in Annex E:

(i) As of 1 January 2002 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 1 of Article 2H and, as the basis for its compliance with these control measures, it shall use the average of its annual calculated level of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses;

(iv) The calculated levels of consumption and production under this subparagraph shall not include the amounts used by the Party for quarantine and pre-shipment applications.

9. Decisions of the Parties referred to in paragraph 4, 6 and 7 of this Article shall be taken according to the same procedure applied to decision-making under Article 10.

Article 6
Assessment and review of control measures

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 and Articles 2A to 2I on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the Secretariat, to the Parties.

Article 7
Reporting of data

1. Each Party shall provide to the Secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances in Annex A for the year 1986, or the best possible estimates of such data where actual data are not available.

2. Each Party shall provide to the Secretariat statistical data on its production, imports and exports of each of the controlled substances,
– in Annex B and Annexes I and II of Group C for the year 1989;
– in Annex E, for the year 1991,

or the best possible estimates of such data where actual data are not available, not later than three months after the date when the provisions set out in the Protocol with regard to the substances in Annexes B, C and E respectively enter into force for that Party.

3. Each Party shall provide to the Secretariat statistical data on its annual production (as defined in paragraph 5 of Article 1) of each of the controlled substances listed in Annexes A, B, C and E and, separately, for each substance,
- Amounts used for feedstocks,
-Amounts destroyed by technologies approved by the Parties, and
-Imports from and exports to Parties and non-Parties respectively,

for the year during which provisions concerning the substances in Annexes A, B, C and E respectively entered into force for that Party and for each year thereafter. Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

3 *bis.* Each Party shall provide to the Secretariat separate statistical data of its annual imports and exports of each of the controlled substances listed in Group II of Annex A and Group I of Annex C that have been recycled.

4. For Parties operating under the provisions of paragraph 8 (a) of Article 2, the requirements in paragraphs 1, 2, 3 and 3 *b*is of this Article in respect of statistical data on imports and exports shall be satisfied if the regional economic integration organization concerned provides data on imports and exports between the organization and States that are not members of that organization.

Article 8
Non-compliance

The Parties, at their first meeting, shall consider and approve procedures and institutional mechanisms for

determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

Article 9
Research, development, public awareness and exchange of information3

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

(a) best technologies for improving the containment, recovery, recycling, or destruction of controlled substances or otherwise reducing their emissions;

(b) possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and

(c) costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.

3. Within two years of the entry into force of this Protocol and every two years thereafter, each Party shall submit to the Secretariat a summary of the activities it has conducted pursuant to this Article.

Article 10
Financial mechanism

1. The Parties shall establish a mechanism for the purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of Article 5 of the Protocol. The mechanism, contributions to which shall be additional to other financial transfers to Parties operating under that paragraph, shall meet all agreed incremental costs of such Parties in order to enable their compliance with the control measures of the Protocol. An indicative list of the categories of incremental costs shall be decided by the meeting of the Parties.

2. The mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral co-operation.

3. The Multilateral Fund shall:

(a) Meet, on a grant or concessional basis as appropriate, and according to criteria to be decided upon by the Parties, the agreed incremental costs;

(b) Finance clearing-house functions to:
  (i) Assist Parties operating under paragraph 1 of Article 5, through country specific studies and other technical co-operation, to identify their needs for co-operation;
  (ii) Facilitate technical co-operation to meet these identified needs;
  (iii) Distribute, as provided for in Article 9, information and relevant materials, and hold workshops, training sessions, and other related activities, for the benefit of Parties that are developing countries; and
  (iv) Facilitate and monitor other multilateral, regional and bilateral co-operation available to Parties that are developing countries.

(c) Finance the secretarial services of the Multilateral Fund and related support costs.

4. The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.

5. The Parties shall establish an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund. The Executive Committee shall discharge its tasks and responsibilities, specified in its terms of reference as agreed by the Parties, with the co-operation and assistance of the International Bank for Reconstruction and Development (World Bank), the United Nations Environment Programme, the United Nations Development Programme or other appropriate agencies depending on their respective areas of expertise. The members of the Executive Committee, which shall be selected on the basis of a balanced representation of the Parties operating under paragraph 1 of Article 5 and of the Parties not so operating, shall be endorsed by the Parties.

6. The Multilateral Fund shall be financed by contributions from Parties not operating under paragraph 1 of Article 5 in convertible currency or, in certain circumstances, in kind and/or in national currency, on the basis of the United Nations scale of assessments. Contributions by other Parties shall be encouraged. Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to a percentage and consistent with any criteria to be specified by decision of the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation, as a minimum:

(a) Strictly relates to compliance with the provisions of this Protocol;

(b) Provides additional resources; and

(c) Meets agreed incremental costs.

7. The Parties shall decide upon the programme budget of the Multilateral Fund for each fiscal period and upon the percentage of contributions of the individual Parties thereto.

8. Resources under the Multilateral Fund shall be disbursed with the concurrence of the beneficiary Party.

9. Decisions by the Parties under this Article shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.

10. The financial mechanism set out in this Article is without prejudice to any future arrangements that may be developed with respect to other environmental issues.

Article 10A
Transfer of technology

Each Party shall take every practicable step, consistent with the programmes supported by the financial mechanism, to ensure:

(a) that the best available, environmentally safe substitutes and related technologies are expeditiously transferred to Parties operating under paragraph 1 of Article 5; and

(b) that the transfers referred to in subparagraph (a) occur under fair and most favourable conditions.

Article 11
Meetings of the parties

1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall:

(a) adopt by consensus rules of procedure for their meetings;

(b) adopt by consensus the financial rules referred to in paragraph 2 of Article 13;

(c) establish the panels and determine the terms of reference referred to in Article 6;

(d) consider and approve the procedures and institutional mechanisms specified in Article 8;

(e) begin preparation of workplans pursuant to paragraph 3 of Article 10.

4. The functions of the meetings of the Parties shall be to:

(a) review the implementation of this Protocol;

(b) decide on any adjustments or reductions referred to in paragraph 9 of Article 2;

(c) decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;

(d) establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;

(e) review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;

(f) review reports prepared by the secretariat pursuant to subparagraph (c) of Article 12;

(g) assess, in accordance with Article 6, the control measures;

(h) consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;

(i) consider and adopt the budget for implementing this Protocol; and

(j) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented

at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

Article 12
Secretariat

For the purposes of this Protocol, the Secretariat shall:

(a) arrange for and service meetings of the Parties as provided for in Article 11;

(b) receive and make available, upon request by a Party, data provided pursuant to Article 7;

(c) prepare and distribute regularly to the Parties reports based on information received pursuant to Articles 7 and 9;

(d) notify the Parties of any request for technical assistance received pursuant to Article 10 so as to facilitate the provision of such assistance;

(e) encourage non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of this Protocol;

(f) provide, as appropriate, the information and requests referred to in subparagraphs (c) and (d) to such non-party observers; and

(g) perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Parties.

Article 13
Financial Provisions

1. The funds required for the operation of this Protocol, including those for the functioning of the Secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.

2. The Parties, at their first meeting, shall adopt by consensus financial rules for the operation of this Protocol.

Article 14
Relationship of this Protocol to the Convention

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

Article 15
Signature

This Protocol shall be open for signature by States and by regional economic integration organizations in Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

Article 16
Entry into force

1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two-thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled.

2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 17
Parties joining after entry into force

Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after the date of its entry into force, shall fulfil forthwith the sum of the obligations under Article 2, as well as under Articles 2A to 2I and Article 4, that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

Article 18
Reservations

No reservations may be made to this Protocol.

Article 19
Withdrawal

Any Party may withdraw from this Protocol by giving written notification to the Depositary at any time after four years of assuming the obligations specified in paragraph 1 of Article 2A. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20
Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this protocol.

DONE AT Montreal this sixteenth day of september, one thousand nine hundred and eighty seven.

ANNEX A
CONTROLLED SUBSTANCES

Group	Substance	Ozone-Depleting Potential*
CFCl3	(CFC-11)	1.0
CF2Cl2	(CFC-12)	1.0
C2F3Cl3	(CFC-113)	0.8
C2F4Cl2	(CFC-114)	1.0
C2F5Cl	(CFC-115)	0.6
Group II		
CF2BrCl	(halon-1211)	3.0
CF3Br	(halon-1301)	10.0
C2F4Br2	(halon-2402)	6.0

* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

ANNEX B
CONTROLLED SUBSTANCES

Group	Substance	Ozone-Depleting Potential
Group I		
CF3Cl	(CFC-13)	1.0
C2FCl5	(CFC-111)	1.0
C2F2Cl4	(CFC-112)	1.0
C3FCl7	(CFC-211)	1.0
C3F2Cl6	(CFC-212)	1.0
C3F3Cl5	(CFC-213)	1.0
C3F4Cl4	(CFC-214)	1.0
C3F5Cl3	(CFC-215)	1.0
C3F6Cl2	(CFC-216)	1.0
C3F7Cl	(CFC-217)	1.0
Group II		
CCl4	carbon tetrachloride	1.1
Group III		
C2H3Cl3*	1,1,1-trichloroethane* (methyl chloroform)	0.1

* This formula does not refer to 1,1,2-trichloroethane

ANNEX C
CONTROLLED SUBSTANCES

Group	Substance	Number of isomers	Ozone-Depleting Potential
Group I			
CHFCl2	(HCFC-21)**	1	0.04
CHF2Cl	(HCFC-22)**	1	0.055
CH2FCl	(HCFC-31)	1	0.02
C2HFCl4	(HCFC-121)	2	0.01–0.04
C2HF2Cl3	(HCFC-122)	3	0.02–0.08
C2HF3Cl2	(HCFC-123)	3	0.02–0.06
CHCl2CF3	(HCFC-123)**	–	0.02
C2HF4Cl	(HCFC-124)	2	0.02–0.04
CHFClCF3	(HCFC-124)**	–	0.022
C2H2FCl3	(HCFC-131)	3	0.007–0.05

C2H2F2Cl2	(HCFC-132)	4	0.008–0.05
C2H2F3Cl	(HCFC-133)	3	0.02–0.06
C2H3FCl2	(HCFC-141)	3	0.005–0.07
CH3CFCl2	(HCFC-141b)**	–	0.11
C2H3F2Cl	(HCFC-142)	3	0.008–0.07
CH3CF2Cl	(HCFC-142b)**	–	0.065
C2H4FCl	(HCFC-151)	2	0.003–0.005
C3HFCl6	(HCFC-221)	5	0.015–0.07
C3HF2Cl5	(HCFC-222)	9	0.01–0.09
C3HF3Cl4	(HCFC-223)	12	0.01–0.08
C3HF4Cl3	(HCFC-224)	12	0.01–0.09
C3HF5Cl2	(HCFC-225)	9	0.02–0.07
CF3CF2CHCl2	(HCFC-225ca)**	–	0.025
CF2ClCF2CHClF	(HCFC-225cb)**	–	0.033
C3HF6Cl	(HCFC-226)	5	0.02–0.10
C3H2FCl5	(HCFC-231)	9	0.05–0.09
C3H2F2Cl4	(HCFC-232)	16	0.008–0.10
C3H2F3Cl3	(HCFC-233)	18	0.007–0.23
C3H2F4Cl2	(HCFC-234)	16	0.01–0.28
C3H2F5Cl	(HCFC-235)	9	0.03–0.52
C3H3FCl4	(HCFC-241)	12	0.004–0.09
C3H3F2Cl3	(HCFC-242)	18	0.005–0.13
C3H3F3Cl2	(HCFC-243)	18	0.007–0.12
C3H3F4Cl	(HCFC-244)	12	0.009–0.14.
C3H4FCl3	(HCFC-251)	12	0.001–0.01
C3H4F2Cl2	(HCFC-252)	16	0.005–0.04
C3H4F3Cl	(HCFC-253)	12	0.003–0.03
C3H5FCl2	(HCFC-261)	9	0.002–0.02
C3H5F2Cl	(HCFC-262)	9	0.002–0.02
C3H6FCl	(HCFC-271)	5	0.001–0.03
Group II			
CHFBr2		1	1.00
CHF2Br	(HBFC-22B1)	1	0.74
CH2FBr		1	0.73
C2HFBr4		2	0.3–0.8
C2HF2Br3		3	0.5–1.8
C2HF3Br2		3	0.4–1.6
C2HF4Br		2	0.7–1.2
C2H2FBr3		3	0.1–1.1
C2H2F2Br2		4	0.2–1.5
C2H2F3Br		3	0.7–1.6
C2H3FBr2		3	0.1–1.7
C2H3F2Br		3	0.2–1.1
C2H4FBr		2	0.07–0.1
C3HFBr6		5	0.3–1.5
C3HF2Br5		9	0.2–1.9
C3HF3Br4		12	0.3–1.8
C3HF4Br3		12	0.5–2.2
C3HF5Br2		9	0.9–2.0
C3HF6Br		5	0.7–3.3
C3H2FBr5		9	0.1–1.9
C3H2F2Br4		16	0.2–2.1
C3H2F3Br3		18	0.2–5.6
C3H2F4Br2		16	0.3–7.5
C3H2F5Br		8	0.9–14.0
C3H3FBr4		12	0.08–1.9
C3H3F2Br3		18	0.1–3.1
C3H3F3Br2		18	0.1–2.5

C3H3F4Br	12	0.3–4.4
C3H4FBr3	12	0.03–0.3
C3H4F2Br2	16	0.1–1.0.
C3H4F3Br	12	0.07–0.8
C3H5FBr2	9	0.04–0.4
C3H5F2Br	9	0.07–0.8
C3H6FBr	5	0.02–0.7
Group III		
CH2BrCl bromochloromethane	1	0.12

* Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.
** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

ANNEX D
A LIST OF PRODUCTS** CONTAINING CONTROLLED SUBSTANCES SPECIFIED IN ANNEX A

Products		Customs code number
1. Automobile and truck air conditioning units (whether incorporated in vehicles or not)		.....
2. Domestic and commercial refrigeration and air conditioning/heat pump equipment***		.....
e.g.	Refrigerators	.....
	Freezers	.....
	Dehumidifiers	.....
	Water coolers	.....
	Ice machines	.....
	Air conditioning and heat pump units	.....
3. Aerosol products, except medical aerosols		.....
4. Portable fire extinguisher		.....
5. Insulation boards, panels and pipe covers		.....
6. Pre-polymers		.....

* This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21 June 1991 as required by paragraph 3 of Article 4 of the Protocol.
** Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.
*** When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.

ANNEX E
CONTROLLED SUBSTANCE

Group	Substance	Ozone-Depleting Potential
Group I		
CH3Br	methyl bromide	0.6.

28. BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

PREAMBLE

The Parties to this Convention,

Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,

Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,

Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of disposal,

Noting that States should ensure that the generator should carry out duties with regards to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal,

Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory,

Recognizing also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,

Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,

Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,

Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,

Convinced that States should take measures for the proper exchange of information on and control of the transboundary movement of hazardous wastes and other wastes from and to those States,

Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,

Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General Assembly of the United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

Affirming that States are responsible for the fulfilment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law,

Recognizing that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply,

Aware of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes,

Aware also of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

Taking into account also the limited capabilities of the developing countries to manage hazardous wastes and other wastes,

Recognizing the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology,

Recognizing also that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations,

Convinced also that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes,

HAVE AGREED AS FOLLOWS:

Article 1
Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and

(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be "other wastes" for the purposes of this Convention.

3. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.

Article 2
Definitions

For the purposes of this Convention:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;

3. "Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;

4. "Disposal" means any operation specified in Annex IV to this Convention;

5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;

7. "Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;

8. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

9. "Area under the national jurisdiction of a State" means any land, marine area or air space within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;

10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;

11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;

13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;

14. "Person" means any natural or legal person;

15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;

16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;

17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;

18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;

20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;

21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

Article 3
National Definitions of Hazardous Wastes

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

Article 4
General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic.

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall:

(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

Article 5
Designation of Competent Authorities and Focal Point

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made by them under paragraph 2 above.

Article 6
Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

(a) The notifier has received the written consent of the State of import; and

(b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;

(b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or

(c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority

of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

Article 7
Transboundary Movement from a Party through States which are not Parties

Paragraph 1 of Article 6 of the Convention shall apply mutatis mutandis to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

Article 8
Duty to Re-import

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

Article 9
Illegal Traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

(a) without notification pursuant to the provisions of this Convention to all States concerned; or

(b) without the consent pursuant to the provisions of this Convention of a State concerned; or

(c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or

(d) that does not conform in a material way with the documents; or

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

(a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,

(b) are otherwise disposed of in accordance with the provisions of this Convention, ithin 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

5. Each Party shall introduce appropriate national/ domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article.

Article 10
International Co-operation

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

(a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, inter alia, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

Article 11
Bilateral, Multilateral and Regional Agreements

1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

Article 12
Consultations on Liability

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

Article 13
Transmission of Information

1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those states are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of:

(a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;

(b) Changes in their national definition of hazardous wastes, pursuant to Article 3; and, as soon as possible;

(c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;

(d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;

(e) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information:

(a) Competent authorities and focal points that have been designated by them pursuant to Article 5;

(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:
  (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;
  (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;
  (iii) Disposals which did not proceed as intended;
  (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;

(c) Information on the measures adopted by them in implementation of this Convention;

(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;

(g) Information on disposal options operated within the area of their national jurisdiction;

(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done.

Article 14
Financial Aspects

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

Article 15
Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.

4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

(a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;

(b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into

consideration, inter alia, available scientific, technical, economic and environmental information;

(c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;

(d) Consider and adopt protocols as required; and

(e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

Article 16
Secretariat

1. The functions of the Secretariat shall be:

(a) To arrange for and service meetings provided for in Articles 15 and 17;

(b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

(c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

(d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its function;

(e) To communicate with Focal Points and Competent Authorities established by the Parties in accordance with Article 5 of this Convention;

(f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;

(g) To receive and convey information from and to Parties on:
- sources of technical assistance and training;
- available technical and scientific know-how;
- sources of advice and expertise; and
- availability of resources with a view to assisting them, upon request, in such areas as;
- the handling of the notification system of this Convention;
- the management of hazardous wastes and other wastes;
- environmentally sound technologies relating to hazardous wastes and other wastes; such as low- and non-waste technology;
- the assessment of disposal capabilities and sites;
- the monitoring of hazardous wastes and other wastes; and
- emergency responses;

(h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;

(i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

(j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

(k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The Secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the Secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

Article 17
Amendment of the Convention

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted them or by at least two thirds of the Parties to the protocol concerned who accepted them, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 18
Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;

(b) Any Party that is unable to accept an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any

protocol, the additional annex or amended annex shall not enter into force until such time the amendment to this Convention or to the protocol enters into force.

Article 19
Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

Article 20
Settlement of Disputes

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute, if the Parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) submission of the dispute to the International Court of Justice; and/or

(b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

Article 21
Signature

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989 and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

Article 22
Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its members States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

Article 23
Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22, paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

Article 24
Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.

2. Political and/or economic integration organizations, in matters within their competence, in accordance with

Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 25
Entry into Force

1. This Convention shall enter into force on the ninetieth day after the day of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each State or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purpose of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 26
Reservations and Declarations

1. No reservation or exception may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27
Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Withdrawal shall be effective one year from receipt of notification by the Depositary, or on such later date as may be specified in the notification.

Article 28
Depository

The Secretary-General of the United Nations shall be the Depository of this Convention and of any protocol thereto.

Article 29
Authentic texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE AT Basel on 22nd day of March 1989

Annex I
CATEGORIES OF WASTES TO BE CONTROLLED

Waste Streams

Y1 Clinical wastes from medical care in hospitals, medical centers and clinics
Y2 Wastes from the production and preparation of pharmaceutical products
Y3 Waste pharmaceuticals, drugs and medicines
Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
Y6 Wastes from the production, formulation and use of organic solvents
Y7 Wastes from heat treatment and tempering operations containing cyanides
Y8 Waste mineral oils unfit for their originally intended use
Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
Y15 Wastes of an explosive nature not subject to other legislation
Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
Y17 Wastes resulting from surface treatment of metals and plastics

Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

Y19 Metal carbonyls
Y20 Beryllium; beryllium compounds
Y21 Hexavalent chromium compounds
Y22 Copper compounds
Y23 Zinc compounds
Y24 Arsenic; arsenic compounds
Y25 Selenium; selenium compounds
Y26 Cadmium; cadmium compounds
Y27 Antimony; antimony compounds
Y28 Tellurium; tellurium compounds
Y29 Mercury; mercury compounds
Y30 Thallium; thallium compounds
Y31 Lead; lead compounds
Y32 Inorganic fluorine compounds excluding calcium fluoride
Y33 Inorganic cyanides
Y34 Acidic solutions or acids in solid form
Y35 Basic solutions or bases in solid form
Y36 Asbestos (dust and fibres)
Y37 Organic phosphorus compounds
Y38 Organic cyanides
Y39 Phenols; phenol compounds including chlorophenols
Y40 Ethers
Y41 Halogenated organic solvents
Y42 Organic solvents excluding halogenated solvents
Y43 Any congenor of polychlorinated dibenzo-furan
Y44 Any congenor of polychlorinated dibenzo-p-dioxin
Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

Annex II
CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

Y46 - Wastes collected from households
Y47 - Residues arising from the incineration of household wastes

Annexes III – IX not included

29. PROTOCOL ON LIABILITY AND COMPENSATION FOR DAMAGE RESULTING FROM THE TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Parties to the Protocol,

Having taken into account the relevant provisions of Principle 13 of the 1992 Rio Declaration on Environment and Development, according to which States shall develop international and national legal instruments regarding liability and compensation for the victims of pollution and other environmental damage,

Being Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Mindful of their obligations under the Convention, Aware of the risk of damage to human health, property and the environment caused by hazardous wastes and other wastes and the transboundary movement and disposal thereof,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

Committed to Article 12 of the Convention, and emphasizing the need to set out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes,

Convinced of the need to provide for third party liability and environmental liability in order to ensure that adequate and prompt compensation is available for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes,

Have agreed as follows:

Article 1
Objective

The objective of the Protocol is to provide for a comprehensive regime for liability and for adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes and their disposal including illegal traffic in those wastes.

Article 2
Definitions

1. The definitions of terms contained in the Convention apply to the Protocol, unless expressly provided otherwise in the Protocol.

2. For the purposes of the Protocol:

(a) "The Convention" means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(b) "Hazardous wastes and other wastes" means hazardous wastes and other wastes within the meaning of Article 1 of the Convention;

(c) "Damage" means:
  (i) Loss of life or personal injury;
  (ii) Loss of or damage to property other than property held by the person liable in accordance with the present Protocol;
  (iii) Loss of income directly deriving from an economic interest in any use of the environment, incurred as a result of impairment of the environment, taking into account savings and costs;
  (iv) The costs of measures of reinstatement of the impaired environment, limited to the costs of measures actually taken or to be undertaken; and
  (v) The costs of preventive measures, including any loss or damage caused by such measures, to the extent that the damage arises out of or results from hazardous properties of the wastes involved in the transboundary movement and disposal of hazardous wastes and other wastes subject to the Convention;

(d) "Measures of reinstatement" means any reasonable measures aiming to assess, reinstate or restore damaged or destroyed components of the environment. Domestic law may indicate who will be entitled to take such measures;

(e) "Preventive measures" means any reasonable measures taken by anyperson in response to an incident, to prevent, minimize, or mitigate loss or damage, or to effect environmental clean-up;

(f) "Contracting Party" means a Party to the Protocol;

(g) "Protocol" means the present Protocol;

(h) "Incident" means any occurrence, or series of occurrences having the same origin that causes damage or creates a grave and imminent threat of causing damage;

(i) "Regional economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by the Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;

(j) "Unit of account" means the Special Drawing Right as defined by the International Monetary Fund.

Article 3
Scope of application

1. The Protocol shall apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic, from the point where the wastes are loaded on the means of transport in an area under the national jurisdiction of a State of export. Any Contracting Party may by way of notification to the Depositary exclude the application of the Protocol, in respect of all transboundary movements for which it is the State of export, for such incidents which occur in an area under its national jurisdiction, as regards damage in its area of national jurisdiction. The Secretariat shall inform all Contracting Parties of notifications received in accordance with this Article.

2. The Protocol shall apply:

(a) In relation to movements destined for one of the operations specified in Annex IV to the Convention other than D13, D14, D15, R12 or R13, until the time at which the notification of completion of disposal pursuant to Article 6, paragraph 9, of the Convention has occurred, or, where such notification has not been made, completion of disposal has occurred; and

(b) In relation to movements destined for the operations specified in D13, D14, D15, R12 or R13 of Annex IV to the Convention, until completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV to the Convention.

3. (a) The Protocol shall apply only to damage suffered in an area under the national jurisdiction of a Contracting Party arising from an incident as referred to in paragraph 1;

(b) When the State of import, but not the State of export, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 which takes place after the moment at which the disposer has taken possession of the hazardous wastes and other wastes. When the State of export, but not the State of import, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 which takes place prior to the moment at which the disposer takes possession of the hazardous wastes and other wastes. When neither the State of export nor the State of import is a Contracting Party, the Protocol shall not apply;

(c) Notwithstanding subparagraph (a), the Protocol shall also apply to the damages specified in Article 2, subparagraphs 2 (c) (i), (ii) and (v), of the Protocol occurring in areas beyond any national jurisdiction;

(d) Notwithstanding subparagraph (a), the Protocol shall, in relation to rights under the Protocol, also apply to damages suffered in an area under the national jurisdiction of a State of transit which is not a Contracting Party provided that such State appears in Annex A and has acceded to a multilateral or regional agreement concerning transboundary movements of hazardous waste which is in force. Subparagraph (b) will apply mutatis mutandis.

4. Notwithstanding paragraph 1, in case of re-importation under Article 8 or Article 9, subparagraph 2 (a), and Article 9, paragraph 4, of the Convention, the provisions of the Protocol shall apply until the hazardous wastes and other wastes reach the original State of export.

5. Nothing in the Protocol shall affect in any way the sovereignty of States over their territorial seas and their jurisdiction and the right in their respective exclusive economic zones and continental shelves in accordance with international law.

6. Notwithstanding paragraph 1 and subject to paragraph 2 of this Article:

(a) The Protocol shall not apply to damage that has arisen from a transboundary movement of hazardous wastes and other wastes that has commenced before the entry into force of the Protocol for the Contracting Party concerned;

(b) The Protocol shall apply to damage resulting from an incident occurring during a transboundary movement of wastes falling under Article 1, subparagraph 1 (b), of the Convention only if those wastes have been notified in accordance with Article 3 of the Convention by the State of export or import, or both, and the damage arises in an area under the national jurisdiction of a State, including a State of transit, that has defined or considers those wastes as hazardous provided that the requirements of Article 3 of the Convention have been met. In this case strict liability shall be channelled in accordance with Article 4 of the Protocol.

7.(a) The Protocol shall not apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal pursuant to a bilateral, multilateral or regional agreement or arrangement concluded and notified in accordance with Article 11 of the Convention if:

(i) The damage occurred in an area under the national jurisdiction of any of the Parties to the agreement or arrangement;

(ii) There exists a liability and compensation regime, which is in force and is applicable to the damage resulting from such a transboundary movement or disposal provided it fully meets, or exceeds the objective of the Protocol by providing a high level of protection to persons who have suffered damage;

(iii) The Party to the Article 11 agreement or arrangement in which the damage has occurred has previously notified the Depositary of the non-application of the Protocol to any damage occurring in an area under its national jurisdiction due to an incident resulting from movements or disposals referred to in this subparagraph; and

(iv) The Parties to the Article 11 agreement or arrangement have not declared that the Protocol shall be applicable;

(b) In order to promote transparency, a Contracting Party that has notified the Depositary of the non-application of the Protocol shall notify the Secretariat of the applicable liability and compensation regime referred to in subparagraph (a) (ii) and include a description of the regime. The Secretariat shall submit to the Meeting of the Parties, on a regular basis,summary reports on the notifications received;

(c) After a notification pursuant to subparagraph (a) (iii) is made, actions for compensation for damage to which subparagraph (a) (i) applies may not be made under the Protocol.

8. The exclusion set out in paragraph 7 of this Article shall neither affect any of the rights or obligations under the Protocol of a Contracting Party which is not party to the agreement or arrangement mentioned above, nor shall it affect rights of States of transit which are not Contracting Parties.

9. Article 3, paragraph 2, shall not affect the application of Article 16 to all Contracting Parties.

Article 4
Strict Liability

1. The person who notifies in accordance with Article 6 of the Convention, shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. Thereafter the disposer shall be liable for damage. If the State of export is the notifier or if no notification has taken place, the exporter shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. With respect to Article 3, subparagraph 6 (b), of the Protocol, Article 6, paragraph 5, of the Convention shall apply mutatis mutandis. Thereafter the disposer shall be liable for damage.

2. Without prejudice to paragraph 1, with respect to wastes under Article 1, subparagraph 1 (b), of the Convention that have been notified as hazardous by the State of import in accordance with Article 3 of the Convention but not by the State of export, the importer shall be liable until the disposer has taken possession of the wastes, if the State of import is the notifier or if no notification has taken place. Thereafter the disposer shall be liable for damage.

3. Should the hazardous wastes and other wastes be re-imported in accordance with Article 8 of the Convention, the person who notified shall be liable for damage from the time the hazardous wastes leave the disposal site, until the wastes are taken into possession by the exporter, if applicable, or by the alternate disposer.

4. Should the hazardous wastes and other wastes be re-imported under Article 9, subparagraph 2 (a), or Article 9, paragraph 4, of the Convention, subject to Article 3 of the Protocol, the person who re-imports shall be held liable for damage until the wastes are taken into possession by the exporter if applicable, or by the alternate disposer.

5. No liability in accordance with this Article shall attach to the person referred to in paragraphs 1 and 2 of this Article, if that person proves that the damage was:

(a) The result of an act of armed conflict, hostilities, civil war or insurrection;

(b) The result of a natural phenomenon of exceptional, inevitable, unforeseeable and irresistible character;

(c) Wholly the result of compliance with a compulsory measure of a public authority of the State where the damage occurred; or

(d) Wholly the result of the wrongful intentional conduct of a third party, including the person who suffered the damage.

6. If two or more persons are liable according to this Article, the claimant shall have the right to seek full compensation for the damage from any or all of the persons liable.

Article 5
Fault-based liability

Without prejudice to Article 4, any person shall be liable for damage caused or contributed to by his lack of compliance with the provisions implementing the Convention or by his wrongful intentional, reckless or negligent acts or omissions. This Article shall not affect the domestic law of the Contracting Parties governing liability of servants and agents.

Article 6
Preventive measures

1. Subject to any requirement of domestic law any person in operational control of hazardous wastes and other wastes at the time of an incident shall take all reasonable measures to mitigate damage arising therefrom.

2. Notwithstanding any other provision in the Protocol, any person in possession and/or control of hazardous

wastes and other wastes for the sole purpose of taking preventive measures, provided that this person acted reasonably and in accordance with any domestic law regarding preventive measures, is not thereby subject to liability under the Protocol.

Article 7
Combined cause of the damage

1. Where damage is caused by wastes covered by the Protocol and wastes not covered by the Protocol, a person otherwise liable shall only be liable according to the Protocol in proportion to the contribution made by the wastes covered by the Protocol to the damage.

2. The proportion of the contribution to the damage of the wastes referred to in paragraph 1 shall be determined with regard to the volume and properties of the wastes involved, and the type of damage occurring.

3. In respect of damage where it is not possible to distinguish between the contribution made by wastes covered by the Protocol and wastes not covered by the Protocol, all damage shall be considered to be covered by the Protocol.

Article 8
Right of recourse

1. Any person liable under the Protocol shall be entitled to a right of recourse in accordance with the rules of procedure of the competent court:

(a) Against any other person also liable under the Protocol; and

(b) As expressly provided for in contractual arrangements.

2. Nothing in the Protocol shall prejudice any rights of recourse to which the person liable might be entitled pursuant to the law of the competent court.

Article 9
Contributory fault

Compensation may be reduced or disallowed if the person who suffered the damage, or a person for whom he is responsible under the domestic law, by his own fault, has caused or contributed to the damage having regard to all circumstances.

Article 10
Implementation

1. The Contracting Parties shall adopt the legislative, regulatory and administrative measures necessary to implement the Protocol.

2. In order to promote transparency, Contracting Parties shall inform the Secretariat of measures to implement the Protocol, including any limits of liability established pursuant to paragraph 1 of Annex B.

3. The provisions of the Protocol shall be applied without discrimination based on nationality, domicile or residence.

Article 11
Conflicts with other liability and compensation agreements

Whenever the provisions of the Protocol and the provisions of a bilateral, multilateral or regional agreement apply to liability and compensation for damage caused by an incident arising during the same portion of a transboundary movement, the Protocol shall not apply provided the other agreement is in force for the Party or Parties concerned and had been opened for signature when the Protocol was opened for signature, even if the agreement was amended afterwards.

Article 12
Financial limits

1. Financial limits for the liability under Article 4 of the Protocol are specified in Annex B to the Protocol. Such limits shall not include any interest or costs awarded by the competent court.

2. There shall be no financial limit on liability under Article 5.

Article 13
Time limit of liability

1. Claims for compensation under the Protocol shall not be admissible unless they are brought within ten years from the date of the incident.

2. Claims for compensation under the Protocol shall not be admissible unless they are brought within five years from the date the claimant knew or ought reasonably to have known of the damage provided that the time limits established pursuant to paragraph 1 of this Article are not exceeded.

3. Where the incident consists of a series of occurrences having the same origin, time limits established pursuant to this Article shall run from the date of the last of such occurrences. Where the incident consists of a continuous occurrence, such time limits shall run from the end of that continuous occurrence.

Article 14
Insurance and other financial guarantees

1. The persons liable under Article 4 shall establish and maintain during the period of the time limit of liability, insurance, bonds or other financial guarantees covering their liability under Article 4 of the Protocol for amounts not less than the minimum limits specified in paragraph 2 of Annex B. States may fulfil their obligation under this paragraph by a declaration of self-insurance. Nothing in this paragraph shall prevent the use of deductibles or co-payments as between the insurer and the insured, but the failure of the insured to pay any deductible or co-payment shall not be a defence against the person who has suffered the damage.

2. With regard to the liability of the notifier, or exporter under Article 4, paragraph 1, or of the importer under

Article 4, paragraph 2, insurance, bonds or other financial guarantees referred to in paragraph 1 of this Article shall only be drawn upon in order to provide compensation for damage covered by Article 2 of the Protocol.

3. A document reflecting the coverage of the liability of the notifier or exporter under Article 4, paragraph 1, or of the importer under Article 4, paragraph 2, of the Protocol shall accompany the notification referred to in Article 6 of the Convention. Proof of coverage of the liability of the disposer shall be delivered to the competent authorities of the State of import.

4. Any claim under the Protocol may be asserted directly against any person providing insurance, bonds or other financial guarantees. The insurer or the person providing the financial guarantee shall have the right to require the person liable under Article 4 to be joined in the proceedings. Insurers and persons providing financial guarantees may invoke the defences which the person liable under Article 4 would be entitled to invoke.

5. Notwithstanding paragraph 4, a Contracting Party shall, by notification to the Depositary at the time of signature, ratification, or approval of, or accession to the Protocol, indicate if it does not provide for a right to bring a direct action pursuant to paragraph 4. The Secretariat shall maintain a record of the Contracting Parties who have given notification pursuant to this paragraph.

Article 15
Financial mechanism

1. Where compensation under the Protocol does not cover the costs of damage, additional and supplementary measures aimed at ensuring adequate and prompt compensation may be taken using existing mechanisms.

2. The Meeting of the Parties shall keep under review the need for and possibility of improving existing mechanisms or establishing a new mechanism.

Article 16
State responsibility

The Protocol shall not affect the rights and obligations of the Contracting Parties under the rules of general international law with respect to State responsibility.

PROCEDURES

Article 17
Competent courts

1. Claims for compensation under the Protocol may be brought in the courts of a Contracting Party only where either:

(a) The damage was suffered; or
(b) The incident occurred; or
(c) The defendant has his habitual residence, or has his principal place of business.

2. Each Contracting Party shall ensure that its courts possess the necessary competence to entertain such claims for compensation.

Article 18
Related actions

1. Where related actions are brought in the courts of different Parties, any court other than the court first seized may, while the actions are pending at first instance, stay its proceedings.

2. A court may, on the application of one of the Parties, decline jurisdiction if the law of that court permits the consolidation of related actions and another court has jurisdiction over both actions.

3. For the purpose of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements resulting from separate proceedings.

Article 19
Applicable law

All matters of substance or procedure regarding claims before the competent court which are not specifically regulated in the Protocol shall be governed by the law of that court including any rules of such law relating to conflict of laws.

Article 20
Relation between the Protocol and the law of the competent court

1. Subject to paragraph 2, nothing in the Protocol shall be construed as limiting or derogating from any rights of persons who have suffered damage, or as limiting the protection or reinstatement of the environment which may be provided under domestic law.

2. No claims for compensation for damage based on the strict liability of the notifier or the exporter liable under Article 4, paragraph 1, or the importer liable under Article 4, paragraph 2, of the Protocol, shall be made otherwise than in accordance with the Protocol.

Article 21
Mutual recognition and enforcement of judgements

1. Any judgement of a court having jurisdiction in accordance with Article 17 of the Protocol, which is enforceable in the State of origin and is no longer subject to ordinary forms of review, shall be recognized in any Contracting Party as soon as the formalities required in that Party have been completed, except:

(a) Where the judgement was obtained by fraud;

(b) Where the defendant was not given reasonable notice and a fair opportunity to present his case;

(c) Where the judgement is irreconcilable with an earlier judgement validly pronounced in another Contracting Party with regard to the same cause of action and the same parties; or

(d) Where the judgement is contrary to the public policy of the Contracting Party in which its recognition is sought.

2. A judgement recognized under paragraph 1 of this Article shall be enforceable in each Contracting Party as soon as the formalities required in that Party have been completed. The formalities shall not permit the merits of the case to be re-opened.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply between Contracting Parties that are Parties to an agreement or arrangement in force on mutual recognition and enforcement of judgements under which the judgement would be recognizable and enforceable.

Article 22
Relationship of the Protocol with the Basel Convention

Except as otherwise provided in the Protocol, the provisions of the Convention relating to its Protocols shall apply to the Protocol.

Article 23
Amendment of Annex B

1. At its sixth meeting, the Conference of the Parties to the Basel Convention may amend paragraph 2 of Annex B following the procedure set out in Article 18 of the Basel Convention.

2.Such an amendment may be made before the Protocol enters into force.

FINAL CLAUSES

Article 24
Meeting of the Parties

1. A Meeting of the Parties is hereby established. The Secretariat shall convene the first Meeting of the Parties in conjunction with the first meeting of the Conference of the Parties to the Convention after entry into force of the Protocol.

2. Subsequent ordinary Meetings of the Parties shall be held in conjunction with meetings of the Conference of the Parties to the Convention unless the Meeting of the Parties decides otherwise. Extraordinary Meetings of the Parties shall be held at such other times as may be deemed necessary by a Meeting of the Parties, or at the written request of any Contracting Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Contracting Parties.

3. The Contracting Parties, at their first meeting, shall adopt by consensus rules of procedure for their meetings as well as financial rules.

4. The functions of the Meeting of the Parties shall be:

(a) To review the implementation of and compliance with the Protocol;

(b) To provide for reporting and establish guidelines and procedures for such reporting where necessary;

(c) To consider and adopt, where necessary, proposals for amendment of the Protocol or any annexes and for any new annexes; and

(d) To consider and undertake any additional action that may be required for the purposes of the Protocol.

Article 25
Secretariat

1. For the purposes of the Protocol, the Secretariat shall:

(a) Arrange for and service Meetings of the Parties as provided for in Article 24;

(b) Prepare reports, including financial data, on its activities carried out in implementation of its functions under the Protocol and present them to the Meeting of the Parties;

(c) Ensure the necessary coordination with relevant international bodies, and in particular enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(d) Compile information concerning the national laws and administrative provisions of Contracting Parties implementing the Protocol;

(e) Cooperate with Contracting Parties and with relevant and competent international organisations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation;

(f) Encourage non-Parties to attend the Meetings of the Parties as observers and to act in accordance with the provisions of the Protocol; and

(g) Perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Meetings of the Parties.

2. The secretariat functions shall be carried out by the Secretariat of the Basel Convention.

Article 26
Signature

The Protocol shall be open for signature by States and by regional economic integration organizations Parties to the Basel Convention in Berne at the Federal

Department of Foreign Affairs of Switzerland from 6 to 17 March 2000 and at United Nations Headquarters in New York from 1 April 2000 to 10 December 2000.

Article 27
Ratification, acceptance, formal confirmation or approval

1. The Protocol shall be subject to ratification, acceptance or approval by States and to formal confirmation or approval by regional economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 of this Article which becomes a Contracting Party without any of its member States being a Contracting Party shall be bound by all the obligations under the Protocol. In the case of such organizations, one or more of whose member States is a Contracting Party, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under the Protocol concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 of this Article shall declare the extent of their competence with respect to the matters governed by the Protocol. These organizations shall also inform the Depositary, who will inform the Contracting Parties, of any substantial modification in the extent of their competence.

Article 28
Accession

1. The Protocol shall be open for accession by any States and by any regional economic integration organization Party to the Basel Convention which has not signed the Protocol. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 of this Article shall declare the extent of their competence with respect to the matters governed by the Protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 27, paragraph 2, shall apply to regional economic integration organizations which accede to the Protocol.

Article 29
Entry into force

1. The Protocol shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each State or regional economic integration organization which ratifies, accepts, approves or formally confirms the Protocol or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purpose of paragraphs 1 and 2 of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 30
Reservations and declarations

1. No reservation or exception may be made to the Protocol. For the purposes of the Protocol, notifications according to Article 3, paragraph 1, Article 3, paragraph 6, or Article 14, paragraph 5, shall not be regarded as reservations or exceptions.

2. Paragraph 1 of this Article does not preclude a State or a regional economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to the Protocol, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of the Protocol, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Protocol in their application to that State or that organization.

Article 31
Withdrawal

1. At any time after three years from the date on which the Protocol has entered into force for a Contracting Party, that Contracting Party may withdraw from the Protocol by giving written notification to the Depositary.

2. Withdrawal shall be effective one year from receipt of notification by the Depositary, or on such later date as may be specified in the notification.

Article 32
Depositary

The Secretary-General of the United Nations shall be the Depositary of the Protocol.

Article 33
Authentic texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of the Protocol are equally authentic.

Annex A
LIST OF STATES OF TRANSIT AS REFERRED TO IN ARTICLE 3, SUBPARAGRAPH 3 (D)

1. Antigua and Barbuda
2. Bahamas
3. Bahrain
4. Barbados
5. Cape Verde
6. Comoros
7. Cook Islands
8. Cuba
9. Cyprus
10. Dominica
11. Dominican Republic
12. Fiji
13. Grenada
14. Haiti
15. Jamaica
16. Kiribati
17. Maldives
18. Malta
19. Marshall Islands
20. Mauritius
21. Micronesia (Federated States of)
22. Nauru
23. Netherlands, on behalf of Aruba and the Netherlands Antilles
24. New Zealand, on behalf of Tokelau
25. Niue
26. Palau
27. Papua New Guinea
28. Samoa
29. Sao Tome and Principe
30. Seychelles
31. Singapore
32. Solomon Islands
33. St. Lucia
34. St. Kitts and Nevis
35. St. Vincent and the Grenadines
36. Tonga
37. Trinidad and Tobago
38. Tuvalu
39. Vanuatu

Annex B
FINANCIAL LIMITS

1. Financial limits for the liability under Article 4 of the Protocol shall be determined by domestic law.

2. The limits of liability shall:

(a) For the notifier, exporter or importer, for any one incident, be not less than:
   (i) 1 million units of account for shipments up to and including 5 tonnes;
   (ii) 2 million units of account for shipments exceeding 5 tonnes, up to and including 25 tonnes;
   (iii) 4 million units of account for shipments exceeding 25 tonnes, up to and including 50 tonnes;
   (iv) 6 million units of account for shipments exceeding 50 tonnes, up to and including to 1,000 tonnes;
   (v) 10 million units of account for shipments exceeding 1,000 tonnes, up to and including 10,000 tonnes;
   (vi) Plus an additional 1,000 units of account for each additional tonne up to a maximum of 30 million units of account;

(b) For the disposer, for any one incident, be not less than 2 million units of account for any one incident.

3. The amounts referred to in paragraph 2 shall be reviewed by the Contracting Parties on a regular basis taking into account, inter alia, the potential risks posed to the environment by the movement of hazardous wastes and their disposal, recycling, and the nature, quantity and hazardous properties of the wastes.

30. CONVENTION ON BIOLOGICAL DIVERSITY

PREAMBLE

The Contracting Parties,

Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components,

Conscious also of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere,

Affirming that the conservation of biological diversity is a common concern of humankind,

Reaffirming that States have sovereign rights over their own biological resources,

Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner,

Concerned that biological diversity is being significantly reduced by certain human activities,

Aware of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures,

Noting that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source,

Noting also that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat,

Noting further that the fundamental requirement for the conservation of biological diversity is the *in-situ* conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings,

Noting further that *ex-situ* measures, preferably in the country of origin, also have an important role to play,

Recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components,

Recognizing also the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation,

Stressing the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the sustainable use of its components,

Acknowledging that the provision of new and additional financial resources and appropriate access to relevant technologies can be expected to make a substantial difference in the world's ability to address the loss of biological diversity,

Acknowledging further that special provision is required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies,

Noting in this regard the special conditions of the least developed countries and small island States,

Acknowledging that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments,

Recognizing that economic and social development and poverty eradication are the first and overriding priorities of developing countries,

Aware that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential,

Noting that, ultimately, the conservation and sustainable use of biological diversity will strengthen friendly relations among States and contribute to peace for humankind,

Desiring to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components, and

Determined to conserve and sustainably use biological diversity for the benefit of present and future generations,

Have agreed as follows:

Article 1
Objectives

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Article 2
Use of Terms

For the purposes of this Convention:

"Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"Biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

"Biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

"Country of origin of genetic resources" means the country which possesses those genetic resources in in-situ conditions.

"Country providing genetic resources" means the country supplying genetic resources collected from in-situ sources, including populations of both wild and domesticated species, or taken from ex-situ sources, which may or may not have originated in that country.

"Domesticated or cultivated species" means species in which the evolutionary process has been influenced by humans to meet their needs.

"Ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"Ex-situ conservation" means the conservation of components of biological diversity outside their natural habitats.

"Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity.

"Genetic resources" means genetic material of actual or potential value.

"Habitat" means the place or type of site where an organism or population naturally occurs.

"In-situ conditions" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"In-situ conservation" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"Protected area" means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.

"Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

"Sustainable use" means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

"Technology" includes biotechnology.

Article 3
Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Article 4
Jurisdictional Scope

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

(a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and

(b) In the case of processes and activities, regardless of where their effects occur, carried out under its

jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

Article 5
Cooperation

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

Article 6
General Measures for Conservation and Sustainable Use

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and

(b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Article 7
Identification and Monitoring

Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10:

(a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;

(b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;

(c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and

(d) Maintain and organize, by any mechanism data, derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

Article 8
In-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate:

(a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;

(b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;

(c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;

(e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;

(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, inter alia, through the development and implementation of plans or other management strategies;

(g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;

(h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;

(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits

arising from the utilization of such knowledge, innovations and practices;

(k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;

(l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and

(m) Cooperate in providing financial and other support for *in-situ* conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

Article 9
Ex-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate, and predominantly for the purpose of complementing in-situ measures:

(a) Adopt measures for the *ex-situ* conservation of components of biological diversity, preferably in the country of origin of such components;

(b) Establish and maintain facilities for *ex-situ* conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources;

(c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions;

(d) Regulate and manage collection of biological resources from natural habitats for *ex-situ* conservation purposes so as not to threaten ecosystems and *in-situ* populations of species, except where special temporary *ex-situ* measures are required under subparagraph (c) above; and

(e) Cooperate in providing financial and other support for *ex-situ* conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of *ex-situ* conservation facilities in developing countries.

Article 10
Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

(a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;

(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

(e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

Article 11
Incentive Measures

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

Article 12
Research and Training

The Contracting Parties, taking into account the special needs of developing countries, shall:

(a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the specific needs of developing countries;

(b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, *inter alia*, in accordance with decisions of the Conference of the Parties taken in consequence of recommendations of the Subsidiary Body on Scientific, Technical and Technological Advice; and

(c) In keeping with the provisions of Articles 16, 18 and 20, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

Article 13
Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes,

with respect to conservation and sustainable use of biological diversity.

Article 14
Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

(b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

(d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

(e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

Article 15
Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.

4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

Article 16
Access to and Transfer of Technology

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and

preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.

Article 17
Exchange of Information

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information.

Article 18
Technical and Scientific Cooperation

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use.of biological diversity, where necessary, through the appropriate international and national institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia,* through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.

3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.

5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

Article 19
Handling of Biotechnology and Distribution of its Benefits

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.

2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.

3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

Article 20
Financial Resources

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the purpose of this Article, the Conference of the Parties, shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

3. The developed country Parties may also provide, and developing country Parties avail themselves of, financial resources related to the implementation of this Convention through bilateral, regional and other multilateral channels.

4. The extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.

5. The Parties shall take full account of the specific needs and special situation of least developed countries in their actions with regard to funding and transfer of technology.

6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of, biological diversity within developing country Parties, in particular small island States.

7. Consideration shall also be given to the special situation of developing countries, including those that are most environmentally vulnerable, such as those with arid and semi-arid zones, coastal and mountainous areas.

Article 21
Financial Mechanism

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20, paragraph 2. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.

2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.

3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.

4. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

Article 22
Relationship with Other International Conventions

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.

2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

Article 23
Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.

4. The Conference of the Parties shall keep under review the implementation of this Convention, and, for this purpose, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;

(b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;

(c) Consider and adopt, as required, protocols in accordance with Article 28;

(d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;

(e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

(f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;

(g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;

(h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and

(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 24
Secretariat

1. A secretariat is hereby established. Its functions shall be:

(a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;

(b) To perform the functions assigned to it by any protocol;

(c) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;

(d) To coordinate with other relevant international bodies and, in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(e) To perform such other functions as may be determined by the Conference of the Parties.

2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 25
Subsidiary Body on Scientific, Technical and Technological Advice

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:

(a) Provide scientific and technical assessments of the status of biological diversity;

(b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and.(e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

Article 26
Reports

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

Article 27
Settlement of Disputes

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;

(b) Submission of the dispute to the International Court of Justice.

4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.

5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article 28
Adoption of Protocols

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.

2. Protocols shall be adopted at a meeting of the Conference of the Parties.

3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

Article 29
Amendment of the Convention or Protocols

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

5. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 30
Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:

(a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;

(b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below;

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.

Article 31
Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 32
Relationship between this Convention and Its Protocols

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.

Article 33
Signature

This Convention shall be open for signature at Rio de Janeiro by all States and any regional economic integration organization from 5 June 1992 until 14 June 1992, and at the United Nations Headquarters in New York from.15 June 1992 to 4 June 1993.

Article 34
Ratification, Acceptance or Approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

Article 35
Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

Article 36
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession.

2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol, has been deposited.

3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which this Convention enters into force for that Contracting Party, whichever shall be the later.

5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 37
Reservations

No reservations may be made to this Convention.

Article 38
Withdrawals

1. At any time after two years from the date on which this Convention has entered into force for a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

Article 39
Financial Interim Arrangements

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties or until the Conference of the Parties decides which institutional structure will be designated in accordance with Article 21.

Article 40
Secretariat Interim Arrangements

The secretariat to be provided by the Executive Director of the United Nations Environment Programme shall be the secretariat referred to in Article 24, paragraph 2, on an interim basis for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties.

Article 41
Depositary

The Secretary-General of the United Nations shall assume the functions of Depositary of this Convention and any protocols.

Article 42
Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE AT Rio de Janeiro on this fifth day of June, one thousand nine hundred and ninety-two.

Annex I
IDENTIFICATION AND MONITORING

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;

2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and

3. Described genomes and genes of social, scientific or economic importance.

Annex II
Part 1

ARBITRATION

Article 1

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 3

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

Article 4

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.

Article 5

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 6

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

Article 7

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, information and facilities; and

(b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 8

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time-limit for a period which should not exceed five more months.

Article 15

The final decision of the arbitral tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

Article 17

Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

Part 2

CONCILIATION

Article 1

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

Article 3

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

Article 4

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

Article 5

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

Article 6

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.

31. CARTAGENA PROTOCOL ON BIOSAFETY

The Parties to this Protocol,

Being Parties to the Convention on Biological Diversity, hereinafter referred to as "the Convention",

Recalling Article 19, paragraphs 3 and 4, and Articles 8 (g) and 17 of the Convention,

Recalling also decision II/5 of 17 November 1995 of the Conference of the Parties to the Convention to develop a Protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity, setting out for consideration, in particular, appropriate procedures for advance informed agreement,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Aware of the rapid expansion of modern biotechnology and the growing public concern over its potential adverse effects on biological diversity, taking also into account risks to human health,

Recognizing that modern biotechnology has great potential for human well-being if developed and used with adequate safety measures for the environment and human health,

Recognizing also the crucial importance to humankind of centres of origin and centres of genetic diversity,

Taking into account the limited capabilities of many countries, particularly developing countries, to cope with the nature and scale of known and potential risks associated with living modified organisms,

Recognizing that trade and environment agreements should be mutually supportive with a view to achieving sustainable development,

Emphasizing that this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements,

Understanding that the above recital is not intended to subordinate this Protocol to other international agreements,

Have agreed as follows:

Article 1
Objective

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

Article 2
General Provisions

1. Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol.

2. The Parties shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.

3. Nothing in this Protocol shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law.

5. The Parties are encouraged to take into account, as appropriate, available expertise, instruments andwork undertaken in international forums with competence in the area of risks to human health.

Article 3
Use of Terms

For the purposes of this Protocol:

(a) "Conference of the Parties" means the Conference of the Parties to the Convention;

(b) "Contained use" means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

(c) "Export" means intentional transboundary movement from one Party to another Party;

(d) "Exporter" means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported;

(e) "Import" means intentional transboundary movement into one Party from another Party;

(f) "Importer" means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported;

(g) "Living modified organism" means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

(h) "Living organism" means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

(i) "Modern biotechnology" means the application of:

(a) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or

(b) Fusion of cells beyond the taxonomic family,

that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;

(j) "Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it;

(k) "Transboundary movement" means the movement of a living modified organism from one Party to another Party, save that for the purposes of Articles 17 and 24 transboundary movement extends to movement between Parties and non-Parties.

Article 4
Scope

This Protocol shall apply to the transboundary movement, transit, handling and use of all living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 5
Pharmaceuticals

Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to the making of decisions on import, this Protocol shall not apply to the transboundary movement of living modified organisms which are pharmaceuticals for humans that are addressed by other relevant international agreements or organisations.

Article 6
Transit and Contained Use

1. Notwithstanding Article 4 and without prejudice to any right of a Party of transit to regulate the transport of living modified organisms through its territory and make available to the Biosafety Clearing-House, any decision of that Party, subject to Article 2, paragraph 3, regarding the transit through its territory of a specific living modified organism, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to living modified organisms in transit.

2. Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to decisions on import and to set standards for contained use within its jurisdiction, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to the transboundary movement of living modified organisms destined for contained use undertaken in accordance with the standards of the Party of import.

Article 7
Application of the Advance Informed Agreement Procedure

1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. "Intentional introduction into the environment" in paragraph 1 above, does not refer to living modified organisms intended for direct use as food or feed, or for processing.

3. Article 11 shall apply prior to the first transboundary movement of living modified organisms intended for direct use as food or feed, or for processing.

4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 8
Notification

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.

Article 9
Acknowledgement of Receipt of Notification

1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within ninety days of its receipt.

2. The acknowledgement shall state:

(a) The date of receipt of the notification;

(b) Whether the notification, prima facie, contains the information referred to in Article 8;

(c) Whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.

3. The domestic regulatory framework referred to in paragraph 2 (c) above, shall be consistent with this Protocol.

4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.

Article 10
Decision Procedure

1. Decisions taken by the Party of import shall be in accordance with Article 15.

2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:

(a) Only after the Party of import has given its written consent; or

(b) After no less than ninety days without a subsequent written consent.

3. Within two hundred and seventy days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Biosafety Clearing-House the decision referred to in paragraph 2 (a) above:

(a) Approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;

(b) Prohibiting the import;

(c) Requesting additional relevant information in accordance with its domestic regulatory framework or Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or

(d) Informing the notifier that the period specified in this paragraph is extended by a defined period of time.

4. Except in a case in which consent is unconditional, a decision under paragraph 3 above, shall set out the reasons on which it is based.

5. A failure by the Party of import to communicate its decision within two hundred and seventy days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.

6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the living modified organism in question as referred to in paragraph 3 above, in order to avoid or minimize such potential adverse effects.

7. The Conference of the Parties serving as the meeting of the Parties shall, at its first meeting, decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import.

Article 11
Procedure for Living Modified Organisms Intended for Direct Use as Food or Feed, or for Processing

1. A Party that makes a final decision regarding domestic use, including placing on the market, of a living modified organism that may be subject to transboundary movement for direct use as food or feed, or for processing shall, within fifteen days of making that decision, inform the Parties through the Biosafety Clearing-House. This information shall contain, at a minimum, the information specified in Annex II. The Party shall provide a copy of the information, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the Biosafety Clearing-House. This provision shall not apply to decisions regarding field trials.

2. The Party making a decision under paragraph 1 above, shall ensure that there is a legal requirement for the accuracy of information provided by the applicant.

3. Any Party may request additional information from the authority identified in paragraph (b) of Annex II.

4. A Party may take a decision on the import of living modified organisms intended for direct use as food or feed, or for processing, under its domestic regulatory framework that is consistent with the objective of this Protocol.

5. Each Party shall make available to the Biosafety Clearing-House copies of any national laws, regulations and guidelines applicable to the import of living modified organisms intended for direct use as food or feed, or for processing, if available.

6. A developing country Party or a Party with an economy in transition may, in the absence of the domestic regulatory framework referred to in paragraph 4 above, and in exercise of its domestic jurisdiction, declare through the Biosafety Clearing-House that its decision prior to the first import of a living modified organism intended for direct use as food or feed, or for processing, on which information has been provided under paragraph 1 above, will be taken according to the following:

(a) A risk assessment undertaken in accordance with Annex III; and

(b) A decision made within a predictable timeframe, not exceeding two hundred and seventy days.

7. Failure by a Party to communicate its decision according to paragraph 6 above, shall not imply its consent or refusal to the import of a living modified organism intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.

8. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of that living modified organism intended for direct use as food or feed, or for processing, in order to avoid or minimize such potential adverse effects.

9. A Party may indicate its needs for financial and technical assistance and capacity-building with respect to living modified organisms intended for direct use as food or feed, or for processing. Parties shall cooperate to meet these needs in accordance with Articles 22 and 28.

Article 12
Review of Decisions

1. A Party of import may, at any time, in light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account the risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within thirty days, inform any notifier that has previously notified movements of the living modified organism referred to in such decision, as well as the Biosafety Clearing-House, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

(a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

(b) Additional relevant scientific or technical information has become available.

3. The Party of import shall respond in writing to such a request within ninety days and set out the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

Article 13
Simplified Procedure

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the objective of this Protocol, specify in advance to the Biosafety Clearing-House:

(a) Cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of import; and

(b) Imports of living modified organisms to it to be exempted from the advance informed agreement procedure.

Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.

2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) above, shall be the information specified in Annex I.

Article 14
Bilateral, Regional and Multilateral Agreements and Arrangements

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living

modified organisms, consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.

2. The Parties shall inform each other, through the Biosafety Clearing-House, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.

3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.

4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the Biosafety Clearing-House of its decision.

Article 15
Risk Assessment

1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

Article 16
Risk Management

1. The Parties shall, taking into account Article 8 (g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of living modified organisms.

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring a risk assessment to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. Parties shall cooperate with a view to:

(a) Identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(b) Taking appropriate measures regarding the treatment of such living modified organisms or specific traits.

Article 17
Unintentional Transboundary Movements and Emergency Measures

1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, relevant international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, make available to the Biosafety Clearing-House the relevant details setting out its point of contact for the purposes of receiving notifications under this Article.

3. Any notification arising from paragraph 1 above, should include:

(a) Available relevant information on the estimated quantities and relevant characteristics and/or traits of the living modified organism;

(b) Information on the circumstances and estimated date of the release, and on the use of the living modified organism in the originating Party;

(c) Any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;

(d) Any other relevant information; and

(e) A point of contact for further information.

4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 above, occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.

Article 18
Handling, Transport, Packaging and Identification

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. Each Party shall take measures to require that documentation accompanying:

(a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

(b) Living modified organisms that are destined for contained use clearly identifies them as living modified organisms; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

(c) Living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Protocol, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.

3. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies.

Article 19
Competent National Authorities and National Focal Points

1. Each Party shall designate one national focal point to be responsible on its behalf for liaison with the Secretariat. Each Party shall also designate one or more competent national authorities, which shall be responsible for performing the administrative functions required by this Protocol and which shall be authorized to act on its behalf with respect to those functions. A Party may designate a single entity to fulfil the functions of both focal point and competent national authority.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, notify the Secretariat of the names and addresses of its focal point and its competent national authority or authorities. Where a Party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for which type of living modified organism. Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the name and address or responsibilities of its competent national authority or authorities.

3. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 2 above, and shall also make such information available through the Biosafety Clearing-House.

Article 20
Information Sharing and the Biosafety Clearing-House

1. A Biosafety Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention, in order to:

(a) Facilitate the exchange of scientific, technical, environmental and legal information on, and experience with, living modified organisms; and

(b) Assist Parties to implement the Protocol, taking into account the special needs of developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition as well as countries that are centres of origin and centres of genetic diversity.

2. The Biosafety Clearing-House shall serve as a means through which information is made available

for the purposes of paragraph 1 above. It shall provide access to information made available by the Parties relevant to the implementation of the Protocol. It shall also provide access, where possible, to other international biosafety information exchange mechanisms.

3. Without prejudice to the protection of confidential information, each Party shall make available to the Biosafety Clearing-House any information required to be made available to the Biosafety Clearing-House under this Protocol, and:

(a) Any existing laws, regulations and guidelines for implementation of the Protocol, as well as information required by the Parties for the advance informed agreement procedure;

(b) Any bilateral, regional and multilateral agreements and arrangements;

(c) Summaries of its risk assessments or environmental reviews of living modified organisms generated by its regulatory process, and carried out in accordance with Article 15, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology;

(d) Its final decisions regarding the importation or release of living modified organisms; and

(e) Reports submitted by it pursuant to Article 33, including those on implementation of the advance informed agreement procedure.

4. The modalities of the operation of the Biosafety Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

Article 21
Confidential Information

1. The Party of import shall permit the notifier to identify information submitted under the procedures of this Protocol or required by the Party of import as part of the advance informed agreement procedure of the Protocol that is to be treated as confidential. Justification shall be given in such cases upon request.

2. The Party of import shall consult the notifier if it decides that information identified by the notifier as confidential does not qualify for such treatment and shall, prior to any disclosure, inform the notifier of its decision, providing reasons on request, as well as an opportunity for consultation and for an internal review of the decision prior to disclosure.

3. Each Party shall protect confidential information received under this Protocol, including any confidential information received in the context of the advance informed agreement procedure of the Protocol. Each Party shall ensure that it has procedures to protect such information and shall protect the confidentiality of such information in a manner no less favourable than its treatment of confidential information in connection with domestically produced living modified organisms.

4. The Party of import shall not use such information for a commercial purpose, except with the written consent of the notifier.

5. If a notifier withdraws or has withdrawn a notification, the Party of import shall respect the confidentiality of commercial and industrial information, including research and development information as well as information on which the Party and the notifier disagree as to its confidentiality.

6. Without prejudice to paragraph 5 above, the following information shall not be considered confidential:

(a) The name and address of the notifier;

(b) A general description of the living modified organism or organisms;

(c) A summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(d) Any methods and plans for emergency response.

Article 22
Capacity-Building

1. The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety, including biotechnology to the extent that it is required for biosafety, for the purpose of the effective implementation of this Protocol, in developing country Parties, in particular the least developed and small island developing States among them, and in Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.

2. For the purposes of implementing paragraph 1 above, in relation to cooperation, the needs of developing country Parties, in particular the least developed and small island developing States among them, for financial resources and access to and transfer of technology and know-how in accordance with the relevant provisions of the Convention, shall be taken fully into account for capacity-building in biosafety. Cooperation in capacity-building shall, subject to the different situation, capabilities and requirements of

each Party, include scientific and technical training in the proper and safe management of biotechnology, and in the use of risk assessment and risk management for biosafety, and the enhancement of technological and institutional capacities in biosafety. The needs of Parties with economies in transition shall also be taken fully into account for such capacity-building in biosafety.

Article 23
Public Awareness and Participation

1. The Parties shall:

(a) Promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking also into account risks to human health. In doing so, the Parties shall cooperate, as appropriate, with other States and international bodies;

(b) Endeavour to ensure that public awareness and education encompass access to information on living modified organisms identified in accordance with this Protocol that may be imported.

2. The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.

3. Each Party shall endeavour to inform its public about the means of public access to the Biosafety Clearing-House.

Article 24
Non-Parties

1. Transboundary movements of living modified organisms between Parties and non-Parties shall be consistent with the objective of this Protocol. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.

2. The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Biosafety Clearing-House on living modified organisms released in, or moved into or out of, areas within their national jurisdictions.

Article 25
Illegal Transboundary Movements

1. Each Party shall adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of living modified organisms carried out in contravention of its domestic measures to implement this Protocol. Such movements shall be deemed illegal transboundary movements.

2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the living modified organism in question by repatriation or destruction, as appropriate.

3. Each Party shall make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements pertaining to it.

Article 26
Socio-Economic Considerations

1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

Article 27
Liability and Redress

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years.

Article 28
Financial Mechanism and Resources

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism established in Article 21 of the Convention shall, through the institutional structure entrusted with its operation, be the financial mechanism for this Protocol.

3. Regarding the capacity-building referred to in Article 22 of this Protocol, the Conference of the Parties serving as the meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need for financial resources by

developing country Parties, in particular the least developed and the small island developing States among them.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed and the small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, mutatis mutandis, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and technological resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels.

Article 29
Conference of the Parties Serving as the Meeting of the Parties to this Protocol

1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Make recommendations on any matters necessary for the implementation of this Protocol;

(b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;

(d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 33 of this Protocol and consider such information as well as reports submitted by any subsidiary body;

(e) Consider and adopt, as required, amendments to this Protocol and its annexes, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and

(f) Exercise such other functions as may be required for the implementation of this Protocol.

5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, mutatis mutandis, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat in conjunction with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an

observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 30
Subsidiary Bodies

1. Any subsidiary body established by or under the Convention may, upon a decision by the Conference of the Parties serving as the meeting of the Parties to this Protocol, serve the Protocol, in which case the meeting of the Parties shall specify which functions that body shall exercise.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under the Protocol shall be taken only by the Parties to the Protocol.

3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be substituted by a member to be elected by and from among the Parties to the Protocol.

Article 31
Secretariat

1. The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Protocol.

2. Article 24, paragraph 1, of the Convention on the functions of the Secretariat shall apply, mutatis mutandis, to this Protocol.

3. To the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, decide on the necessary budgetary arrangements to this end.

Article 32
Relationship with the Convention

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

Article 33
Monitoring and Reporting

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement the Protocol.

Article 34
Compliance

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention.

Article 35
Assessment and Review

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall undertake, five years after the entry into force of this Protocol and at least every five years thereafter, an evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes.

Article 36
Signature

This Protocol shall be open for signature at the United Nations Office at Nairobi by States and regional economic integration organizations from 15 to 26 May 2000, and at United Nations Headquarters in New York from 5 June 2000 to 4 June 2001.

Article 37
Entry Into Force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention.

2. This Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after its entry into force pursuant to paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that State or regional economic integration organization, whichever shall be the later.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 38
Reservations

No reservations may be made to this Protocol.

Article 39
Withdrawal

1. At any time after two years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 40
Authentic Texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Protocol.

DONE at Montreal on this twenty-ninth day of January, two thousand.

ANNEX I

INFORMATION REQUIRED IN NOTIFICATIONS UNDER ARTICLES 8, 10 AND 13

(a) Name, address and contact details of the exporter.
(b) Name, address and contact details of the importer.
(c) Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export.
(d) Intended date or dates of the transboundary movement, if known.
(e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
(f) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
(g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
(h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism.
(i) Intended use of the living modified organism or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology.
(j) Quantity or volume of the living modified organism to be transferred.
(k) A previous and existing risk assessment report consistent with Annex III.
(l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
(m) Regulatory status of the living modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban.
(n) Result and purpose of any notification by the exporter to other States regarding the living modified organism to be transferred.
(o) A declaration that the above-mentioned information is factually correct.

ANNEX II

INFORMATION REQUIRED CONCERNING LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING UNDER ARTICLE 11

(a) The name and contact details of the applicant for a decision for domestic use.
(b) The name and contact details of the authority responsible for the decision.
(c) Name and identity of the living modified organism.
(d) Description of the gene modification, the technique used, and the resulting characteristics of the living modified organism.
(e) Any unique identification of the living modified organism.
(f) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
(g) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
(h) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
(i) Approved uses of the living modified organism.
(j) A risk assessment report consistent with Annex III.
(k) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.

Annex III

RISK ASSESSMENT

Objective

1. The objective of risk assessment, under this Protocol, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely potential receiving environment, taking also into account risks to human health.

Use of risk assessment

2. Risk assessment is, inter alia, used by competent authorities to make informed decisions regarding living modified organisms.

General principles

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and can take into account expert advice of, and guidelines developed by, relevant international organizations.

4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk.

5. Risks associated with living modified organisms or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment.

6. Risk assessment should be carried out on a case-by-case basis. The required information may vary in nature and level of detail from case to case, depending on the living modified organism concerned, its intended use and the likely potential receiving environment.

Methodology

7. The process of risk assessment may on the one hand give rise to a need for further information about specific subjects, which may be identified and requested during the assessment process, while on the other hand information on other subjects may not be relevant in some instances.

8. To fulfil its objective, risk assessment entails, as appropriate, the following steps:

(a) An identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely potential receiving environment, taking also into account risks to human health;

(b) An evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely potential receiving environment to the living modified organism;

(c) An evaluation of the consequences should these adverse effects be realized;

(d) An estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;

(e) A recommendation as to whether or not the risks are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and

(f) Where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

Points to consider

9. Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristics of the following subjects:

(a) Recipient organism or parental organisms. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centres of origin and centres of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;

(b) Donor organism or organisms. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organisms;

(c) Vector. Characteristics of the vector, including its identity, if any, and its source or origin, and its host range;

(d) Insert or inserts and/or characteristics of modification. Genetic characteristics of the inserted nucleic acid and the function it specifies, and/or characteristics of the modification introduced;

(e) Living modified organism. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms;

(f) Detection and identification of the living modified organism. Suggested detection and identification methods and their specificity, sensitivity and reliability;

(g) Information relating to the intended use. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and

(h) Receiving environment. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centres of origin of the likely potential receiving environment.

32. BONN GUIDELINES ON ACCESS TO GENETIC RESOURCES AND FAIR AND EQUITABLE SHARING OF THE BENEFITS ARISING OUT OF THEIR UTILIZATION

(note: the Bonn Guidelines are a non-binding instrument)

The Conference of the Parties

1. *Takes note* of the report of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing;

2. *Takes note* also of the work done by the group convened by the Executive Secretary to develop elements of a draft decision on the use of terms in paragraph 6 of the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefit Arising out of their Utilization;

3. *Decides to* adopt the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefit Arising out of their Utilization as annexed to the present decision;

4. *Invites* Parties and Governments to use the Guidelines when developing and drafting legislative, administrative or policy measures on access and benefit-sharing, and contracts and other arrangements under mutually agreed terms for access and benefit-sharing;

5. *Invites* Parties and relevant organizations to provide financial and technical assistance to support developing countries, in particular least developed countries, small islands developing states, as well as countries with economies in transition, in implementing the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefit Arising out of their Utilization;

6. *Recognizes* that the Guidelines are a useful first step of an evolutionary process in the implementation of relevant provisions of the Convention related to access to genetic resources and benefit-sharing;

7. *Decides* to keep under review the implementation of the guidelines and consider the need for their further refinement on the basis of, *inter alia*, relevant work under the Convention, including work on Article 8(j) and related provisions;

8. *Decides* to reconvene the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to advise the Conference of the Parties on:

(a) Use of terms, definitions and/or glossary, as appropriate;

(b) Other approaches as set out in decision VI/24 B;

(c) Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted in Contracting Parties with users of genetic resources under their jurisdiction;

(d) Its consideration of any available reports or progress reports arising from the present decision;

(e) Needs for capacity-building identified by countries to implement the Guidelines. The Working Group will submit its report to the Conference of the Parties at its seventh meeting;

9. *Requests* the Executive Secretary to invite Parties, Governments and relevant international organizations to submit information on the issues referred to in paragraphs 8 (a), (b), (c) and (e) above, and to make this information available to the Open-ended Working Group on Access and Benefit-sharing and through the clearing-house mechanism;

10. *Requests* the Ad Hoc Open-Ended Working Group on Article 8(j) and Related Provisions to consider the Guidelines as relevant to its ongoing work.

ANNEX
BONN GUIDELINES ON ACCESS TO GENETIC RESOURCES AND FAIR AND EQUITABLE SHARING OF THE BENEFITS ARISING OUT OF THEIR UTILIZATION

I
GENERAL PROVISIONS

A. Key features

1. These Guidelines may serve as inputs when developing and drafting legislative, administrative or policy measures on access and benefit-sharing with particular reference to provisions under Article s 8(j), 10 (c), 15, 16 and 19; and contracts and other arrangements under mutually agreed terms for access and benefit-sharing.

2. Nothing in these Guidelines shall be construed as changing the rights and obligations of Parties under the Convention on Biological Diversity.

3. Nothing in these Guidelines is intended to substitute for relevant national legislation.

4. Nothing in these Guidelines should be interpreted to affect the sovereign rights of States over their natural resources.

5. Nothing in these Guidelines, including the use of terms such as "provider", "user", and "stakeholder", should be interpreted to assign any rights over genetic resources beyond those provided in accordance with the Convention.

6. Nothing in these Guidelines should be interpreted as affecting the rights and obligations relating to genetic resources arising out of the mutually agreed terms under which the resources were obtained from the country of origin.

7. The present Guidelines are voluntary and were prepared with a view to ensuring their:

(a) *Voluntary natur*e, they are intended to guide both users and providers of genetic resources on a voluntary basis;

(b) *Ease of us*e, to maximize their utility and to accommodate a range of applications, the Guidelines are simple;

(c) *Practicalit*y, the elements contained in the guidelines are practical and are aimed at reducing transaction costs;

(d) *Acceptabilit*y, the Guidelines are intended to gain the support of users and providers;

(e) *Complementarit*y, the Guidelines and other international instruments are mutually supportive;

(f) *Evolutionary approac*h,the Guidelines are intended to be reviewed and accordingly revised and improved as experience is gained in access and benefit-sharing;

(g) *Flexibility* to be useful across a range of sectors, users and national circumstances and jurisdictions, guidelines should be flexible;

(h) *Transparenc*y, they are intended to promote transparency in the negotiation and implementation of access and benefit-sharing arrangements.

B. Use of terms

8. The terms as defined in Article 2 of the Convention shall apply to these Guidelines. These include: biological diversity, biological resources, biotechnology, country of origin of genetic resources, country providing genetic resources, *ex situ* conservation, *in situ* conservation, genetic material, genetic resources, and *in situ* conditions.

C. Scope

9. All genetic resources and associated traditional knowledge, innovations and practices covered by the Convention on Biological Diversity and benefits arising from the commercial and other utilization of such resources should be covered by the guidelines, with the exclusion of human genetic resources.

D. Relationship with relevant international regimes

10. The guidelines should be applied in a manner that is coherent and mutually supportive of the work of relevant international agreements and institutions. The guidelines are without prejudice to the access and benefit-sharing provisions of the FAO International Treaty for Plant Genetic Resources for Food and Agriculture. Furthermore, the work of the World Intellectual Property Organization (WIPO) on issues of relevance to access and benefit-sharing should be taken into account. The application of the guidelines should also take into account existing regional legislation and agreements on access and benefit-sharing.

E. Objectives

11. The objectives of the Guidelines are the following:

(a) To contribute to the conservation and sustainable use of biological diversity;

(b) To provide Parties and stakeholders with a transparent framework to facilitate access to genetic resources and ensure fair and equitable sharing of benefits;

(c) To provide guidance to Parties in the development of access and benefit-sharing regimes;

(d) To inform the practices and approaches of stakeholders (users and providers) in access and benefit-sharing arrangements;

(e) To provide capacity-building to guarantee the effective negotiation and implementation of access and benefit-sharing arrangements, especially to developing countries, in particular least developed countries and small island developing States among them;

(f) To promote awareness on implementation of relevant provisions of the Convention on Biological Diversity;

(g) To promote the adequate and effective transfer of appropriate technology to providing Parties, especially developing countries, in particular least developed countries and small island developing States among them, stakeholders and indigenous and local communities;

(h) To promote the provision of necessary financial resources to providing countries that are developing countries, in particular least developed countries and small island developing States among them, or countries with economies in transition with a view to contributing to the achievement of the objectives mentioned above;

(i) To strengthen the clearing-house mechanism as a mechanism for cooperation among Parties in access and benefit-sharing;

(j) To contribute to the development by Parties of mechanisms and access and benefit-sharing regimes that recognize the protection of traditional knowledge, innovations and practices of indigenous and local communities, in accordance with domestic laws and relevant international instruments;

(k) To contribute to poverty alleviation and be supportive to the realization of human food security, health and cultural integrity, especially in developing countries, in particular least developed countries and small island developing States among them;

(l) Taxonomic research, as specified in the Global Taxonomy Initiative, should not be prevented, and providers should facilitate acquisition of material for systematic use and users should make available all information associated with the specimens thus obtained.

12. The Guidelines are intended to assist Parties in developing an overall access and benefit-sharing strategy, which may be part of their national biodiversity strategy and action plan, and in identifying the steps involved in the process of obtaining access to genetic resources and sharing benefits.

II
ROLES AND RESPONSIBILITIES IN ACCESS AND BENEFIT-SHARING PURSUANT TO ARTICLE 15 OF THE CONVENTION ON BIOLOGICAL DIVERSITY

A. National focal point

13. Each Party should designate one national focal point for access and benefit-sharing and make such information available through the clearing-house mechanism. The national focal point should inform applicants for access to genetic resources on procedures for acquiring prior informed consent and mutually agreed terms, including benefit-sharing, and on competent national authorities, relevant indigenous and local communities and relevant stakeholders, through the clearing-house mechanism.

B. Competent national authority(ies)

14. Competent national authorities, where they are established, may, in accordance with applicable national legislative, administrative or policy measures, be responsible for granting access and be responsible for advising on:

(a) The negotiating process;

(b) Requirements for obtaining prior informed consent and entering into mutually agreed terms;

(c) Monitoring and evaluation of access and benefit-sharing agreements;

(d) Implementation/enforcement of access and benefit-sharing agreements;

(e) Processing of applications and approval of agreements;

(f) The conservation and sustainable use of the genetic resources accessed;

(g) Mechanisms for the effective participation of different stakeholders, as appropriate for the different steps in the process of access and benefit-sharing, in particular, indigenous and local communities;

(h) Mechanisms for the effective participation of indigenous and local communities while promoting the objective of having decisions and processes available in a language understandable to relevant indigenous and local communities.

15. The competent national authority(ies) that have the legal power to grant prior informed consent may delegate this power to other entities, as appropriate.

C. Responsibilities

16. Recognizing that Parties and stakeholders may be both users and providers, the following balanced list of roles and responsibilities provides key elements to be acted upon:

(a) Contracting Parties which are countries of origin of genetic resources, or other Parties which have acquired the genetic resources in accordance with the Convention, should:

(i) Be encouraged to review their policy, administrative and legislative measures to ensure they are fully complying with Article 15 of the Convention;

(ii) Be encouraged to report on access applications through the clearing-house mechanism and other reporting channels of the Convention;

(iii) Seek to ensure that the commercialization and any other use of genetic resources should not prevent traditional use of genetic resources;

(iv) Ensure that they fulfil their roles and responsibilities in a clear, objective and transparent manner;

(v) Ensure that all stakeholders take into consideration the environmental consequences of the access activities;

(vi) Establish mechanisms to ensure that their decisions are made available to relevant

indigenous and local communities and relevant stakeholders, particularly indigenous and local communities;

(vii) Support measures, as appropriate, to enhance indigenous and local communities' capacity to represent their interests fully at negotiations;

(b) In the implementation of mutually agreed terms, users should:

(i) Seek informed consent prior to access to genetic resources, in conformity with Article 15, paragraph 5, of the Convention;

(ii) Respect customs, traditions, values and customary practices of indigenous and local communities;

(iii) Respond to requests for information from indigenous and local communities;

(iv) Only use genetic resources for purposes consistent with the terms and conditions under which they were acquired;

(v) Ensure that uses of genetic resources for purposes other than those for which they were acquired, only take place after new prior informed consent and mutually agreed terms are given;

(vi) Maintain all relevant data regarding the genetic resources, especially documentary evidence of the prior informed consent and information concerning the origin and the use of genetic resources and the benefits arising from such use;

(vii) As much as possible endeavour to carry out their use of the genetic resources in, and with the participation of, the providing country;

(viii) When supplying genetic resources to third parties, honour any terms and conditions regarding the acquired material. They should provide this third party with relevant data on their acquisition, including prior informed consent and conditions of use and record and maintain data on their supply to third parties. Special terms and conditions should be established under mutually agreed terms to facilitate taxonomic research for non-commercial purposes;

(ix) Ensure the fair and equitable sharing of benefits, including technology transfer to providing countries, pursuant to Article 16 of the Convention arising from the commercialization or other use of genetic resources, in conformity with the mutually agreed terms they established with the indigenous and local communities or stakeholders involved;

(c) Providers should:

(i) Only supply genetic resources and/or traditional knowledge when they are entitled to do so;

(ii) Strive to avoid imposition of arbitrary restrictions on access to genetic resources.

(d) Contracting Parties with users of genetic resources under their jurisdiction should take appropriate legal, administrative, or polic y measures, as appropriate, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted. These countries could consider, *inter alia*, the following measures:

(i) Mechanisms to provide information to potential users on their obligations regarding access to genetic resources;

(ii) Measures to encourage the disclosure of the country of origin of the genetic resources and of the origin of traditional knowledge, innovations and practices of indigenous and local communities in applications for intellectual property rights;

(iii) Measures aimed at preventing the use of genetic resources obtained without the prior informed consent of the Contracting Party providing such resources;

(iv) Cooperation between Contracting Parties to address alleged infringements of access and benefit-sharing agreements;

(v) Voluntary certification schemes for institutions abiding by rules on access and benefit-sharing;

(vi) Measures discouraging unfair trade practices;

(vii) Other measures that encourage users to comply with provisions under subparagraph 16 (b) above.

III
PARTICIPATION OF STAKEHOLDERS

17. Involvement of relevant stakeholders is essential to ensure the adequate development and implementation of access and benefit-sharing arrangements. However, due to the diversity of stakeholders and their diverging interests, their appropriate involvement can only be determined on a case-by-case basis.

18. Relevant stakeholders should be consulted and their views taken into consideration in each step of the process, including:

(a) When determining access, negotiating and implementing mutually agreed terms, and in the sharing of benefits;

(b) In the development of a national strategy, policies or regimes on access and benefit-sharing.

19. To facilitate the involvement of relevant stakeholders, including indigenous and local communities, appropriate consultative arrangements, such as national consultative committees, comprising relevant stakeholder representatives, should be made.

20. The involvement of relevant stakeholders should be promoted by:

(a) Providing information, especially regarding scientific and legal advice, in order for them to be able to participate effectively;

(b) Providing support for capacity-building, in order for them to be actively engaged in various stages of access and benefit-sharing arrangements, such as in the development and implementation of mutually agreed terms and contractual arrangements.

21. The stakeholders involved in access to genetic resources and benefit-sharing may wish to seek the support of a mediator or facilitator when negotiating mutually agreed terms.

IV
STEPS IN THE ACCESS AND BENEFIT-SHARING PROCESS

A. Overall strategy

22. Access and benefit-sharing systems should be based on an overall access and benefit-sharing strategy at the country or regional level. This access and benefit-sharing strategy should aim at the conservation and sustainable use of biological diversity, and may be part of a national biodiversity strategy and action plan and promote the equitable sharing of benefits.

B. Identification of steps

23. The steps involved in the process of obtaining access to genetic resources and sharing of benefits may include activities prior to access, research and development conducted on the genetic resources, as well as their commercialization and other uses, including benefit-sharing.

C. Prior informed consent

24. As provided for in Article 15 of the Convention on Biological Diversity, which recognizes the sovereign rights of States over their natural resources, each Contracting Party to the Convention shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and fair and equitable sharing of benefits arising from such uses. In accordance with Article 15, paragraph 5, of the Convention on Biological Diversity, access to genetic resources shall be subject to prior informed consent of the contracting Party providing such resources, unless otherwise determined by that Party.

25. Against this background, the Guidelines are intended to assist Parties in the establishment of a system of prior informed consent, in accordance with Article 15, paragraph 5, of the Convention.

1. Basic principles of a prior informed consent system

26. The basic principles of a prior informed consent system should include:

(a) Legal certainty and clarity;

(b) Access to genetic resources should be facilitated at minimum cost;

(c) Restrictions on access to genetic resources should be transparent, based on legal grounds, and not run counter to the objectives of the Convention;

(d) Consent of the relevant competent national authority(ies) in the provider country. The consent of relevant stakeholders, such as indigenous and local communities, as appropriate to the circumstances and subject to domestic law, should also be obtained.

Elements of a prior informed consent system

27. Elements of a prior informed consent system may include:

(a) Competent authority(ies) granting or providing for evidence of prior informed consent;

(b) Timing and deadlines;

(c) Specification of use;

(d) Procedures for obtaining prior informed consent;

(e) Mechanism for consultation of relevant stakeholders;

(f) Process.

Competent authority(ies) granting prior informed consent

28. Prior informed consent for access to *in situ* genetic resources shall be obtained from the Contracting Party providing such resources, through its competent national authority(ies), unless otherwise determined by that Party.

29. In accordance with national legislation, prior informed consent may be required from different levels of Government. Requirements for obtaining prior informed consent (national/provincial/local) in the provider country should therefore be specified.

30. National procedures should facilitate the involvement of all relevant stakeholders from the community to the government level, aiming at simplicity and clarity.

31. Respecting established legal rights of indigenous and local communities associated with the genetic resources being accessed or where traditional knowledge associated with these genetic resources

is being accessed, the prior informed consent of indigenous and local communities and the approval and involvement of the holders of traditional knowledge, innovations and practices should be obtained, in accordance with their traditional practices, national access policies and subject to domestic laws.

32. For *ex situ* collections, prior informed consent should be obtained from the competent national authority(ies) and/or the body governing the *ex situ* collection concerned as appropriate.

Timing and deadlines

33. Prior informed consent is to be sought adequately in advance to be meaningful both for those seeking and for those granting access. Decisions on applications for access to genetic resources should also be taken within a reasonable period of time.

Specification of use

34. Prior informed consent should be based on the specific uses for which consent has been granted. While prior informed consent may be granted initially for specific use(s), any change of use including transfer to third parties may require a new application for prior informed consent. Permitted uses should be clearly stipulated and further prior informed consent for changes or unforeseen uses should be required. Specific needs of taxonomic and systematic research as specified by the Global Taxonomy Initiative should be taken into consideration.

35. Prior informed consent is linked to the requirement of mutually agreed terms.

Procedures for obtaining prior informed consent

36. An application for access could require the following information to be provided, in order for the competent authority to determine whether or not access to a genetic resource should be granted. This list is indicative and should be adapted to national circumstances:

(a) Legal entity and affiliation of the applicant and/or collector and contact person when the applicant is an institution;

(b) Type and quantity of genetic resources to which access is sought;

(c) Starting date and duration of the activity;

(d) Geographical prospecting area;

(e) Evaluation of how the access activity may impact on conservation and sustainable use of biodiversity, to determine the relative costs and benefits of granting access;

(f) Accurate information regarding intended use (e.g.:taxonomy,collection,research, commercialization);

(g) Identification of where the research and development will take place;

(h) Information on how the research and development is to be carried out;

(i) Identification of local bodies for collaboration in research and development;

(j) Possible third party involvement;

(k) Purpose of the collection, research and expected results;

(l) Kinds/types of benefits that could come from obtaining access to the resource, including benefits from derivatives and products arising from the commercial and other utilization of the genetic resource;

(m) Indication of benefit-sharing arrangements;

(n) Budget;

(o) Treatment of confidential information.

37. Permission to access genetic resources does not necessarily imply permission to use associated knowledge and *vice versa.*

Process

38. Applications for access to genetic resources through prior informed consent and decisions by the competent authority(ies) to grant access to genetic resources or not shall be documented in written form.

39. The competent authority could grant access by issuing a permit or licence or following other appropriate procedures. A national registration system could be used to record the issuance of all permits or licences, on the basis of duly completed application forms.

40. The procedures for obtaining an access permit/ licence should be transparent and accessible by any interested party.

D. Mutually agreed terms

41. In accordance with Article 15, paragraph 7, of the Convention on Biological Diversity, each Contracting Party shall "take legislative, administrative or policy measures, as appropriate (...) with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other

utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms". Thus, guidelines should assist Parties and stakeholders in the development of mutually agreed terms to ensure the fair and equitable sharing of benefits.

1. Basic requirements for mutually agreed terms

42. The following principles or basic requirements could be considered for the development of mutually agreed terms:

(a) Legal certainty and clarity;

(b) Minimization of transaction costs, by, for example:
  (i) Establishing and promoting awareness of the Government's and relevant stakeholders' requirements for prior informed consent and contractual arrangements;
  (ii) Ensuring awareness of existing mechanisms for applying for access, entering into arrangements and ensuring the sharing of benefits;
  (iii) Developing framework agreements, under which repeat access under expedited arrangements can be made;
  (iv) Developing standardized material transfer agreements and benefit-sharing arrangements for similar resources and similar uses (see appendix I for suggested elements of such an agreement);

(c) Inclusion of provisions on user and provider obligations;

(d) Development of different contractual arrangements for different resources and for different uses and development of model agreements;

(e) Different uses may include, *inter alia,* taxonomy, collection, research, commercialization;

(f) Mutually agreed terms should be negotiated efficiently and within a reasonable period of time;

(g) Mutually agreed terms should be set out in a written agreement.

43. The following elements could be considered as guiding parameters in contractual agreements. These elements could also be considered as basic requirements for mutually agreed terms:

(a) Regulating the use of resources in order to take into account ethical concerns of the particular Parties and stakeholders, in particular indigenous and local communities concerned;

(b) Making provision to ensure the continued customary use of genetic resources and related knowledge;

(c) Provision for the use of intellectual property rights include joint research, obligation to implement rights on inventions obtained and to provide licences by common consent;

(d) The possibility of joint ownership of intellectual property rights according to the degree of contribution.

2. Indicative list of typical mutually agreed terms

44. The following provides an indicative list of typical mutually agreed terms:

(a) Type and quantity of genetic resources, and the geographical/ecological area of activity;

(b) Any limitations on the possible use of the material;

(c) Recognition of the sovereign rights of the country of origin;

(d) Capacity-building in various areas to be identified in the agreement;

(e) A clause on whether the terms of the agreement in certain circumstances (e.g. change of use) can be renegotiated;

(f) Whether the genetic resources can be transferred to third parties and conditions to be imposed in such cases, e.g. whether or not to pass genetic resources to third parties without ensuring that the third parties enter into similar agreements except for taxonomic and systematic research that is not related to commercialization;

(g) Whether the knowledge, innovations and practices of indigenous and local communities have been respected, preserved and maintained, and whether the customary use of biological resources in accordance with traditional practices has been protected and encouraged;

(h) Treatment of confidential information;

(i) Provisions regarding the sharing of benefits arising from the commercial and other utilization of genetic resources and their derivatives and products.

3. Benefit-sharing

45. Mutually agreed terms could cover the conditions, obligations, procedures, types, timing, distribution and mechanisms of benefits to be shared. These will vary depending on what is regarded as fair and equitable in light of the circumstances.

Types of benefits

46. Examples of monetary and non-monetary benefits are provided in appendix II to these Guidelines.

Timing of benefits

47. Near-term, medium-term and long-term benefits should be considered, including up-front payments, milestone payments and royalties. The time-frame of benefit-sharing should be definitely stipulated. Furthermore, the balance among near-term, medium-term and long-term benefit should be considered on a case-by-case basis.

Distribution of benefits

48. Pursuant to mutually agreed terms established following prior informed consent, benefits should be shared fairly and equitably with all those who have been identified as having contributed to the resource management, scientific and/or commercial process. The latter may include governmental, non-governmental or academic institutions and indigenous and local communities. Benefits should be directed in such a way as to promote conservation and sustainable use of biological diversity.

Mechanisms for benefit-sharing

49. Mechanisms for benefit-sharing may vary depending upon the type of benefits, the specific conditions in the country and the stakeholders involved. The benefit-sharing mechanism should be flexible as it should be determined by the partners involved in benefit-sharing and will vary on a case-by-case basis.

50. Mechanisms for sharing benefits should include full cooperation in scientific research and technology development, as well as those that derive from commercial products including trust funds, joint ventures and licences with preferential terms.

V
OTHER PROVISIONS

A. Incentives

51. The following incentive measures exemplify measures which could be used in the implementation of the guidelines:

(a) The identification and mitigation or removal of perverse incentives, that may act as obstacles for conservation and sustainable use of biological diversity through access and benefit-sharing, should be considered;

(b) The use of well-designed economic and regulatory instruments, directly or indirectly related to access and benefit-sharing, should be considered to foster equitable and efficient allocation of benefits;

(c) The use of valuation methods should be considered as a tool to inform users and providers involved in access and benefit-sharing;

(d) The creation and use of markets should be considered as a way of efficiently achieving conservation and sustainable use of biological diversity.

B. Accountability in implementing access and benefit-sharing arrangements

52. Parties should endeavour to establish mechanisms to promote accountability by all stakeholders involved in access and benefit-sharing arrangements.

53. To promote accountability, Parties may consider establishing requirements regarding:

(a) Reporting; and

(b) Disclosure of information.

54. The individual collector or institution on whose behalf the collector is operating should, where appropriate, be responsible and accountable for the compliance of the collector.

C. National monitoring and reporting

55. Depending on the terms of access and benefit-sharing, national monitoring may include:

(a) Whether the use of genetic resources is in compliance with the terms of access and benefit-sharing;

(b) Research and development process;

(c) Applications for intellectual property rights relating to the material supplied.

56. The involvement of relevant stakeholders, in particular, indigenous and local communities, in the various stages of development and implementation of access and benefit-sharing arrangements can play an important role in facilitating the monitoring of compliance.

D. Means for verification

57. Voluntary verification mechanisms could be developed at the national level to ensure compliance with the access and benefit-sharing provisions of the Convention on Biological Diversity and national legal instruments of the country of origin providing the genetic resources.

58. A system of voluntary certification could serve as a means to verify the transparency of the process of access and benefit-sharing. Such a system could certify that the access and benefit-sharing provisions of the Convention on Biological Diversity have been complied with.

E. Settlement of disputes

59. As most obligations arising under mutually agreed arrangements will be between providers and users, disputes arising in these arrangements should be solved in accordance with the relevant contractual arrangements on access and benefit-sharing and the applicable law and practices.

60. In cases where the access and benefit-sharing agreements consistent with the Convention on Biological Diversity and national legal instruments of the country of origin of genetic resources have not been complied with, the use of sanctions could be considered, such as penalty fees set out in contractual agreements.

F. Remedies

61. Parties may take appropriate effective and proportionate measures for violations of national legislative, administrative or policy measures implementing the access and benefit-sharing provisions of the Convention on Biological Diversity, including requirements related to prior informed consent and mutually agreed terms.

Appendix I
SUGGESTED ELEMENTS FOR MATERIAL TRANSFER AGREEMENTS
Material transfer agreements may contain wording on the following elements:

A. Introductory provisions

1. Preambular reference to the Convention on Biological Diversity
2. Legal status of the provider and user of genetic resources
3. Mandate and/or general objectives of provider and, where appropriate, user of genetic resources

B. Access and benefit-sharing provisions

1. Description of genetic resources covered by the material transfer agreements, including accompanying information
2. Permitted uses, bearing in mind the potential uses, of the genetic resources, their products or derivatives under the material transfer agreement (e.g. research, breeding, commercialization)
3. Statement that any change of use would require new prior informed consent and material transfer agreement
4. Whether intellectual property rights may be sought and if so under what conditions
5. Terms of benefit-sharing arrangements, including commitment to share monetary and non-monetary benefits
6. No warranties guaranteed by provider on identity and/or quality of the provided material
7. Whether the genetic resources and/or accompanying information may be transferred to third parties and if so conditions that should apply
8. Definitions
9. Duty to minimize environmental impacts of collecting activities

C. Legal provisions

1. Obligation to comply with the material transfer agreement
2. Duration of agreement
3. Notice to terminate the agreement
4. Fact that the obligations in certain clauses survive the termination of the agreement
5. Independent enforceability of individual clauses in the agreement
6. Events limiting the liability of either party (such as act of God, fire, flood, etc.)
7. Dispute settlement arrangements
8. Assignment or transfer of rights
9. Assignment, transfer or exclusion of the right to claim any property rights, including intellectual property rights, over the genetic resources received through the material transfer agreement
10. Choice of law
11. Confidentiality clause
12. Guarantee

Appendix II
MONETARY AND NON- MONETARY BENEFITS

1. Monetary benefits may include, but not be limited to:

a. Access fees/fee per sample collected or otherwise acquired;
b. Up-front payments;
c. Milestone payments;
d. Payment of royalties;
e. Licence fees in case of commercialization;
f. Special fees to be paid to trust funds supporting conservation and sustainable use of biodiversity;
g. Salaries and preferential terms where mutually agreed;
h. Research funding;
i. Joint ventures;
j. Joint ownership of relevant intellectual property rights.

2. Non-monetary benefits may include, but not be limited to:

a. Sharing of research and development results;

b. Collaboration, cooperation and contribution in scientific research and development programmes, particularly biotechnological research activities, where possible in the provider country;

c. Participation in product development;

d. Collaboration, cooperation and contribution in education and training;

e. Admittance to *ex situ* facilities of genetic resources and to databases;

f. Transfer to the provider of the genetic resources of knowledge and technology under fair and most favourable terms, including on concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity;

g. Strengthening capacities for technology transfer to user developing country Parties and to Parties that are countries with economies in transition and technology development in the country of origin that provides genetic resources. Also to facilitate abilities of indigenous and local communities to conserve and sustainably use their genetic resources;

h. Institutional capacity-building;

i. Human and material resources to strengthen the capacities for the administration and enforcement of access regulations;

j. Training related to genetic resources with the full participation of providing Parties, and where possible, in such Parties;

k. Access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;

l. Contributions to the local economy;

m. Research directed towards priority needs, such as health and food security, taking into account domestic uses of genetic resources in provider countries;

n. Institutional and professional relationships that can arise from an access and benefit-sharing agreement and subsequent collaborative activities;

o. Food and livelihood security benefits;

p. Social recognition;

q. Joint ownership of relevant intellectual property rights.

B. Other approaches, including the development of an action plan for capacity-building

The Conference of the Parties,

I. CAPACITY-BUILDING

Recognizing the need to assess ongoing capacity-building activities for access and benefit-sharing, in view of elaborating an action plan for capacity-building for access and benefit-sharing,

1. Decides to convene an Open-ended Expert Workshop on Capacity-building for Access to Genetic Resources and Benefit-sharing. The Workshop will be open to participation by representatives, including experts, nominated by Governments and regional economic integration organizations; as well as representatives of relevant intergovernmental organizations (including donor organizations), non-governmental organizations, and indigenous and local communities. The Workshop should further develop the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing annexed to the present decision;

2. Requests the Executive Secretary to make appropriate arrangements for the Workshop;

3. Invites Parties and indigenous and local communities to provide to the Executive-Secretary information regarding capacity-building needs, priorities and existing initiatives for capacity-building for access to genetic resources and benefit-sharing;

4. Invites relevant intergovernmental organizations, non-governmental organizations and the private sector to provide information regarding existing initiatives and activities for capacity-building for access to genetic resources and benefit-sharing;

5. Welcomes the complementary initiative of the United Nations Environment Programme to provide capacity-building to developing countries on access to genetic resources and benefit-sharing, and invites the United Nations Environment Programme to provide information to the Executive Secretary on its activities;

6. Requests the Executive Secretary to prepare a report for the workshop on capacity-building, providing a compilation of needs and priorities of countries, and ongoing capacity-building activities on access and benefit-sharing, with a view to developing an action plan for capacity-building on access and benefit-sharing which responds to the needs of Parties, focuses on priority areas and also complements capacity-building efforts under way in the area of access and benefit-sharing;

7. Invites the financial mechanism and other relevant intergovernmental organizations to participate in the Workshop and to support the implementation of the Action Plan on Capacity-building for Access and Benefit-sharing;

8. Requests the Executive Secretary to establish a roster of experts on access to genetic resources and benefit-sharing;

9. Urges Parties, other Governments and relevant bodies when nominating their experts for inclusion in the roster to consider gender balance, involvement of representatives of indigenous and local communities, and a range of relevant disciplines and expertise;

10. Recognizes that a package of measures may be neccessary to address the different needs of parties and relevant stakeholders through, interlia, the clearing-inhouse mechanism to the convention.

II. OTHER APPROACHES

11. Recognizes that a package of measures may be necessary to address the different needs of Parties and stakeholders in the implementation of access and benefit-sharing arrangements.

12. Recognizes also that other approaches could be considered to complement the Bonn Guideline, such as model contractual agreements, existing regional agreements and model laws on access to genetic resources and benefit-sharing.

13. Requests the Executive Secretary to compile information on existing complementary measures and approaches, and experiences with their implementation, and to disseminate such information to Parties and relevant stakeholders through, *inter alia*, the clearing-house mechanism of the Convention.

Annex
DRAFT ELEMENTS FOR AN ACTION PLAN FOR CAPACITY-BUILDING FOR ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING

1. Objective of the Action Plan

1. The objective of the Action Plan is to facilitate and support the development and strengthening of capacities for the effective implementation of the provisions of the Convention relating to access to genetic resources and benefit-sharing at the local, national, subregional, regional and international levels.

2. To achieve the objective, the Action Plan will provide a framework for identifying country and stakeholder needs, priorities, mechanisms of implementation and sources of funding.

2. Key areas requiring capacity-building

3. The following key areas, which require capacity-building initiatives, should be considered in a flexible and transparent manner, based on a demand-driven approach, taking into account the different situations, needs, capabilities and stages of development of each country and should avoid duplication of efforts between various capacity-building initiatives:

a. Strengthening of relevant institutions;

b. Assessment, inventory and monitoring of biological resources, and traditional knowledge including taxonomic capacity, within the context of the Global Taxonomy Initiative;

c. Valuation of genetic resources and market information, including production and marketing strategies;

d. Inventory and case-studies of existing legislative measures and development of appropriate legislation, including sui generis systems;

e. Development of information systems, and information management and exchange, linked with the clearing-house mechanism of the Convention;

f. Development and strengthening capacities of indigenous and local communities for participation in decision making and implementation;

g. Public education and awareness focusing on relevant stakeholders;

h. Human resources development and training at all levels, including legal drafting skills for development of access to genetic resources and benefit-sharing measures;

i. Funding and resource management;

j. Contract negotiation skills for all relevant stakeholders, in particular indigenous and local communities;

k. Means for the protection of traditional knowledge associated with genetic resources;

l. Scientific and technical areas, including technology transfer relevant to access to and use of genetic resources and benefit-sharing;

m. Development of instruments, tools, and indicators to monitor and assess the implementation of capacity-building for access to genetic resources and benefit-sharing at all stages.

3. Processes

4. The following processes and measures should be undertaken:

a. Awareness raising for the issues at stake and identification of capacity needs at the local, national, subregional, and regional levels, taking into account, as appropriate, the work of the Global Environment Facility on national capacity self-assessment;

b. Integration of capacity-building for access to genetic resources and benefit-sharing within the framework of national biodiversity strategies and other related initiatives and strategies;

c. Prioritization at the local, national, and regional levels of the key areas;

d. Sequencing of actions, including timelines for the operation of capacity-building for access to genetic resources and benefit-sharing;

e. Identification of existing and planned capacity-building initiatives at the local, national, subregional and regional levels, both public and private, and their coverage including by:
   i. National sources;
   ii. Bilateral sources;
   iii. Regional sources;
   iv. Multilateral agencies;
   v. Other international sources;
   vi. Other stakeholders, in particular indigenous and local communities;

f. Enhancing synergies and coordination of capacity-building initiatives;

g. Establishment of indicators for monitoring capacity-building implementation.

4. Means of implementation

5. The following mechanisms could be used for the implementation of capacity-building measures for access to genetic resources and benefit-sharing:

a. Development of appropriate national regulatory framework;

b. Scientific and technical cooperation among Parties, and between Parties and relevant multilateral agencies and other organizations through, *inter alia*, the clearing-house mechanism of the Convention;

c. Information exchange, through the clearing-house mechanism of the Convention, the use of the internet, databases, CD-ROMs, hard copies and workshops;

d. Identification and dissemination of case-studies and best practices;

e. Regional and subregional collaborative arrangements;

f. Coordination between multilateral and bilateral donors and other organizations;

g. Development of model agreements and codes of conduct for specific uses, users and sectors;

h. Training workshops;

i. Full and effective involvement and participation of all relevant stakeholders, in particular indigenous and local communities taking into account the tasks defined within the programme of work on the implementation of Article 8(j) and related provisions of the Convention;

j. Funding through the Global Environment Facility and other donors;

k. The participation of the private sector as provider of capacity-building in specific areas, for example through collaborative research, transfer of technology and funding;

l. The Global Taxonomy Initiative;

m. The roster of experts on access to genetic resources and benefit-sharing to be established under the Convention;

n. National focal points and competent national authorities.

5. Coordination

6. In view of the multiplicity of actors undertaking capacity-building initiatives for access to genetic resources and benefit-sharing, mutual information and coordination should be promoted in order to avoid duplication of effort and to identify existing gaps in coverage. Initiatives for coordination should be encouraged at all levels.

7. The Conference of the Parties should encourage voluntary submissions by Parties and Governments and relevant international organizations on steps taken, including by donors, towards the implementation of capacity-building measures, to be accessible through the clearing-house mechanism of the Convention.

8. Parties may consider including in their national reports information on the implementation of capacity-building measures on access to genetic resources and benefit-sharing.

C. Role of intellectual property rights in the implementation of access and benefit-sharing arrangements

The Conference of the Parties

1. Invites Parties and Governments to encourage the disclosure of the country of origin of genetic resources in applications for intellectual property rights, where the subject matter of the application concerns or makes use of genetic resources in its development, as a possible contribution to tracking compliance with prior informed consent and the mutually agreed terms on which access to those resources was granted;

2. Also invites Parties and Governments to encourage the disclosure of the origin of relevant traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity in applications for intellectual property rights, where the subject matter of the application concerns or makes use of such knowledge in its development;

3. Requests the Executive Secretary, with the help of other international and intergovernmental organizations such as the World Intellectual Property Organization and through the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention, where appropriate, to undertake further information gathering and analysis with regard to:

a. Impact of intellectual property regimes on access to and use of genetic resources and scientific research;

b. Role of customary laws and practices in relation to the protection of genetic resources and traditional knowledge, innovations and practices, and their relationship with intellectual property rights;

c. Consistency and applicability of requirements for disclosure of country of origin and prior informed consent in the context of international legal obligations;

d. Efficacy of country of origin and prior informed consent disclosures in assisting the examination of intellectual property rights applications and the re-examination of intellectual property rights granted;

e. Efficacy of country of origin and prior informed consent disclosures in monitoring compliance with access provisions;

f. Feasibility of an internationally recognized certificate of origin system as evidence of prior informed consent and mutually agreed terms; and

g. Role of oral evidence of prior art in the examination, granting and maintenance of intellectual property rights;

4. Invites the World Intellectual Property Organization to prepare a technical study, and to report its findings to the Conference of the Parties at its seventh meeting, on methods consistent with obligations in treaties administered by the World Intellectual Property Organization for requiring the disclosure within patent applications of, *inter alia*:

a. Genetic resources utilized in the development of the claimed inventions;

b. The country of origin of genetic resources utilized in the claimed inventions;

c. Associated traditional knowledge, innovations and practices utilized in the development of the claimed inventions;

d. The source of associated traditional knowledge, innovations and practices; and

e. Evidence of prior informed consent;

5. Requests the Executive Secretary to collect, compile and disseminate information on the matters specified in paragraphs 3 and 4 above, including through the clearing-house mechanism of the Convention and other appropriate means;

6. Invites Parties and Governments to submit case-studies that they consider relevant to the issues specified in paragraphs 3 and 4; and

7. Requests the Executive Secretary to gather information and prepare a report on national and regional experiences;

8. Invites other relevant international organizations (such as the Food and Agriculture Organization of the United Nations, the United Nations Conference on Trade and Development, the World Intellectual Property Organization, the World Trade Organization, and the United Nations Commission on Human Rights), as well as regional organizations, Parties and Governments to contribute to the further study and analysis of the issues specified in paragraphs 3 and 4;

9. Encourages the World Intellectual Property Organization to make rapid progress in the development of model intellectual property clauses which may be considered for inclusion in contractual agreements when mutually agreed terms are under negotiation;

10. Recognizes the importance of the work being undertaken by the World Intellectual Property Organization on international models and

encourage the World Intellectual Property Organization to also consider means by which Parties could collaborate to protect traditional knowledge for further consideration by the Conference of the Parties;

11. Urges the World Intellectual Property Organization to provide to the Conference of the Parties with the results of its deliberations of relevance to access to genetic resources and benefit-sharing related to traditional knowledge;

12. Encourages Parties to facilitate the participation of indigenous and local communities and other relevant stakeholders in the various forums, in particular the World Intellectual Property Organization, the Convention on Biological Diversity, the World Trade Organization, the United Nations Conference on Trade and Development and regional forums, as well as in the preparation of national strategies, policies, regulatory frameworks and legislation related to access to genetic resources and benefit-sharing, from a very early stage;

13. Requests the Executive Secretary to compile information, and to make it available through the clearing-house mechanism of the Convention and other means, on the principles, legal mechanisms and procedures for obtaining prior informed consent of indigenous and local communities under national access regimes for genetic resources, and also on assessments of the effectiveness of such mechanisms and procedures, and requests Parties to provide such information to assist the Executive Secretary.

D. Other issues relating to access and benefit-sharing

The Conference of Parties,

The relationship between the Agreement on Trade-related Aspects of Intellectual Property Rights of the World Trade Organization and the Convention on Biological Diversity

Noting that the provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights of the World Trade Organization and the Convention on Biological Diversity are interrelated,

Noting also that the relationship between the Agreement on Trade-related Aspects of Intellectual Property Rights and the Convention on Biological Diversity is being examined by the Council for Trade-related Aspects of Intellectual Property Rights, in conformity with Article 19 of the Doha WTO Ministerial Declaration, adopted in November 2001,

Noting further that the Convention Secretariat has still not been granted observer status on the Council for Trade-related Aspects of Intellectual Property Rights, notwithstanding the official request of the Executive Secretary to the Director-General of the World Trade Organization in a letter dated 4 July 2000,

1. Requests the Executive Secretary of the Convention to renew the application for observer status on the Council for Trade-related Aspects of Intellectual Property Rights, and to report back to the Conference of Parties on his efforts;

2. Requests the Executive Secretary to follow discussions and developments in the Committee on Trade and Environment of the World Trade Organization and the Council for Trade-related Aspects of Intellectual Property Rights regarding the relationship between the Agreement on Trade-related Aspects of Intellectual Property Rights and the Convention;

Cooperation with other relevant intergovernmental organizations

3. Acknowledges relevant work being carried out by other intergovernmental organisations, such as the World Intellectual Property Organization, the World Trade Organization, the Union for the Protection of New Varieties of Plants, the United Nations Conference on Trade and Development, and the Food and Agriculture Organization of the United Nations, on issues related to access to genetic resources and benefit-sharing;

4. Requests the Executive Secretary to further collaborate with the above relevant organisations to ensure mutual supportiveness and avoid duplication of work;

5. Recognizes the important role that the International Treaty on Plant Genetic Resources for Food and Agriculture will have, in harmony, with the Convention, for facilitated access to plant genetic resources for food and agriculture and for the fair and equitable sharing of benefits arising out of their utilization and refers to decision VI/6, on the International Treaty on Plant Genetic Resources for Food and Agriculture;

Information related to access and benefit-sharing arrangements

Recognizing that access to information is an essential instrument in the development of national capacity for dealing with access and benefit-sharing arrangements and important in enhancing the necessary bargaining power of stakeholders in access and benefit-sharing arrangements,

Noting that, since the adoption of the Convention, an increasing number of Parties have developed national/

regional regimes on access and benefit-sharing and that Parties and stakeholders could learn from sharing their respective experiences relating to the development and implementation of access and benefit-sharing regimes,

Recognizing that the Secretariat of the Convention could assist in disseminating this information among Parties and stakeholders, *inter alia*, through strengthening of the clearing-house mechanism,

6. Requests Parties and relevant organizations, as appropriate, to make available to the Executive Secretary:

a. Detailed information on the measures adopted to implement access and benefit-sharing, including the text of any legislation or other measures developed to regulate access and benefit-sharing;

b. Case-studies on the implementation of access and benefit-sharing arrangements;

c. Other information, such as that listed in decision V/26, paragraph 12;

7. Requests the Executive Secretary to compile the information received and to make it available,through, *inter alia*, the clearing-house mechanism, including in hard copy and CD-ROM and relevant meetings under the Convention on Biological Diversity in order to facilitate access to this information by Parties and relevant stakeholders;

ex situ collections acquired prior to the entry into force of the Convention and not addressed by the Commission on Genetic Resources for Food and Agriculture ;

8. Notes with appreciation the report International Review of the *ex situ* Plant Collections of the Botanic Gardens of the World: Reviewing the Plant Genetic Resource Collections of Botanic Gardens Worldwide, prepared by Botanic Gardens Conservation International with the support of the Government of the United Kingdom and the Secretariat of the Convention on Biological Diversity.

33. UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

The Parties to this Convention,

Acknowledging that change in the Earth's climate and its adverse effects are a common concern of humankind,

Concerned that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind,

Noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

Aware of the role and importance in terrestrial and marine ecosystems of sinks and reservoirs of greenhouse gases,

Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof,

Acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Recalling also that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

Recognizing that States should enact effective environmental legislation, that environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply, and that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries,

Recalling the provisions of General Assembly resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and Development, and resolutions 43/53 of 6 December 1988, 44/207 of 22 December 1989, 45/212 of 21 December 1990 and 46/169 of 19 December 1991 on protection of global climate for present and future generations of mankind,

Recalling also the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sea-level rise on islands and coastal areas, particularly low-lying coastal areas and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,

Recalling further the Vienna Convention for the Protection of the Ozone Layer, 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as adjusted and amended on 29 June 1990,

Noting the Ministerial Declaration of the Second World Climate Conference adopted on 7 November 1990,

Conscious of the valuable analytical work being conducted by many States on climate change and of the important contributions of the World Meteorological Organization, the United Nations Environment Programme and other organs, organizations and bodies of the United Nations system, as well as other international and intergovernmental bodies, to the exchange of results of scientific research and the coordination of research,

Recognizing that steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

Recognizing that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems, Recognizing also the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at the global, national and, where agreed, regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect,

Recognizing further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

Recognizing the special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions,

Affirming that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty,

Recognizing that all countries, especially developing countries, need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling greenhouse gas emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial,

Determined to protect the climate system for present and future generations,

Have agreed as follows:

Article 1
Definitions *

For the purposes of this Convention:

1. "Adverse effects of climate change" means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.

2. "Climate change" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

3. "Climate system" means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

4. "Emissions" means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time.

5. "Greenhouse gases" means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

6. "Regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

7. "Reservoir" means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.

8. "Sink" means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.

9. "Source" means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere.

* Titles of articles are included solely to assist the reader.

Article 2
Objective

The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Article 3
Principles

In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.

2. The specific needs and special circumstances of developing country Parties, especially those that are

particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Article 4
Commitments

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:

(a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties;

(b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change;

(c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors;

(d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;

(e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods;

(f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;

(g) Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;

(h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;

(i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations; and

(j) Communicate to the Conference of the Parties information related to implementation, in accordance with Article 12.

2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:

(a) Each of these Parties shall adopt national 1 policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

(b) In order to promote progress to this end, each of these Parties shall communicate, within six months of the entry into force of the Convention for it and periodically thereafter, and in accordance with Article 12, detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a), with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol. This information will be reviewed by the Conference of the Parties, at its first session and periodically thereafter, in accordance with Article 7;

(c) Calculations of emissions by sources and removals by sinks of greenhouse gases for the purposes of subparagraph (b) above should take into account the best available scientific knowledge, including of the effective capacity of sinks and the respective contributions of such gases to climate change. The Conference of the Parties shall consider and agree 1 This includes policies and measures adopted by regional economic integration organizations on methodologies for these calculations at its first session and review them regularly thereafter;

(d) The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met;

(e) Each of these Parties shall:

(i) Coordinate as appropriate with other such Parties, relevant economic and administrative instruments developed to achieve the objective of the Convention; and
(ii) Identify and periodically review its own policies and practices which encourage activities that lead to greater levels of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol than would otherwise occur;

(f) The Conference of the Parties shall review, not later than 31 December 1998, available information with a view to taking decisions regarding such amendments to the lists in Annexes I and II as may be appropriate, with the approval of the Party concerned;

(g) Any Party not included in Annex I may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by subparagraphs (a) and (b) above. The Depositary shall inform the other signatories and Parties of any such notification.

3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.

4. The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects.

5. The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies.

6. In the implementation of their commitments under paragraph 2 above, a certain degree of flexibility shall be allowed by the Conference of the Parties to the Parties included in Annex I undergoing the process of transition to a market economy, in order to enhance the ability of these Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.

7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

8. In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:

(a) Small island countries;

(b) Countries with low-lying coastal areas;

(c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;

(d) Countries with areas prone to natural disasters;

(e) Countries with areas liable to drought and desertification;

(f) Countries with areas of high urban atmospheric pollution;

(g) Countries with areas with fragile ecosystems, including mountainous ecosystems;

(h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and

(i) Land-locked and transit countries. Further, the Conference of the Parties may take actions, as appropriate, with respect to this paragraph.

9. The Parties shall take full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology.

10. The Parties shall, in accordance with Article 10, take into consideration in the implementation of the commitments of the Convention the situation of Parties, particularly developing country Parties, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change. This applies notably to Parties with economies that are highly dependent on income generated from the production, processing and export, and/or consumption of fossil fuels and associated energy-intensive products and/or the use of fossil fuels for which such Parties have serious difficulties in switching to alternatives.

Article 5
Research and Systematic Observation

In carrying out their commitments under Article 4, paragraph 1(g), the Parties shall:

(a) Support and further develop, as appropriate, international and intergovernmental programmes

and networks or organizations aimed at defining, conducting, assessing and financing research, data collection and systematic observation, taking into account the need to minimize duplication of effort;

(b) Support international and intergovernmental efforts to strengthen systematic observation and national scientific and technical research capacities and capabilities, particularly in developing countries, and to promote access to, and the exchange of, data and analyses thereof obtained from areas beyond national jurisdiction; and

(c) Take into account the particular concerns and needs of developing countries and cooperate in improving their endogenous capacities and capabilities to participate in the efforts referred to in subparagraphs (a) and (b) above.

Article 6
Education, Training and Public Awareness

In carrying out their commitments under Article 4, paragraph 1(i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) The development and implementation of educational and public awareness programmes on climate change and its effects;
(ii) Public access to information on climate change and its effects;
(iii) Public participation in addressing climate change and its effects and developing adequate responses; and
(iv) Training of scientific, technical and managerial personnel.

(b) Cooperate in and promote, at the international level, and, where appropriate, using existing bodies:
(i) The development and exchange of educational and public awareness material on climate change and its effects; and
(ii) The development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

Article 7
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The Conference of the Parties, as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any related legal instruments that the Conference of the Parties may adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall:

(a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;

(b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(c) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(d) Promote and guide, in accordance with the objective and provisions of the Convention, the development and periodic refinement of comparable methodologies, to be agreed on by the Conference of the Parties, inter alia, for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases;

(e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication;

(g) Make recommendations on any matters necessary for the implementation of the Convention;

(h) Seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11;

(i) Establish such subsidiary bodies as are deemed

necessary for the implementation of the Convention;

(j) Review reports submitted by its subsidiary bodies and provide guidance to them;

(k) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies;

(l) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and

(m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention.

3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure as well as those of the subsidiary bodies established by the Convention, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.

4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in Article 21 and shall take place not later than one year after the date of entry into force of the Convention. Thereafter, ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties.

5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 8
Secretariat

1. A secretariat is hereby established.

2. The functions of the secretariat shall be:

(a) To make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) To compile and transmit reports submitted to it;

(c) To facilitate assistance to the Parties, particularly developing country Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;

(d) To prepare reports on its activities and present them to the Conference of the Parties;

(e) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(f) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(g) To perform the other secretariat functions specified in the Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

3. The Conference of the Parties, at its first session, shall designate a permanent secretariat and make arrangements for its functioning.

Article 9
Subsidiary Body for Scientific and Technological Advice

1. A subsidiary body for scientific and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, and drawing upon existing competent international bodies, this body shall:

(a) Provide assessments of the state of scientific knowledge relating to climate change and its effects;

(b) Prepare scientific assessments on the effects of measures taken in the implementation of the Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes, international cooperation in research and development related to climate change, as well as on ways and means of supporting endogenous capacity-building in developing countries; and

(e) Respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions and terms of reference of this body may be further elaborated by the Conference of the Parties.

Article 10
Subsidiary Body for Implementation

1. A subsidiary body for implementation is hereby established to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention. This body shall be open to participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, this body shall:

(a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change;

(b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2(d); and

(c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

Article 11
Financial Mechanism

1. A mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology, is hereby defined. It shall function under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to this Convention. Its operation shall be entrusted to one or more existing international entities.

2. The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.

3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:

(a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;

(b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;

(c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and

(d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.

4. The Conference of the Parties shall make arrangements to implement the above-mentioned provisions at its first session, reviewing and taking into account the interim arrangements referred to in Article 21, paragraph 3, and shall decide whether these interim arrangements shall be maintained. Within four years thereafter, the Conference of the Parties shall review the financial mechanism and take appropriate measures.

5. The developed country Parties may also provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels.

Article 12
Communication of Information Related to Implementation

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:

(a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;

(b) A general description of steps taken or envisaged by the Party to implement the Convention; and

(c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.

2. Each developed country Party and each other Party included in Annex I shall incorporate in its communication the following elements of information:

(a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2(a) and 2(b); and

(b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2(a).

3. In addition, each developed country Party and each other developed Party included in Annex II shall incorporate details of measures taken in accordance with Article 4, paragraphs 3, 4 and 5.

4. Developing country Parties may, on a voluntary basis, propose projects for financing, including specific technologies, materials, equipment, techniques or practices that would be needed to implement such projects, along with, if possible, an estimate of all incremental costs, of the reductions of emissions and increments of removals of greenhouse gases, as well as an estimate of the consequent benefits.

5. Each developed country Party and each other Party included in Annex I shall make its initial communication within six months of the entry into force of the Convention for that Party. Each Party not so listed shall make its initial communication within three years of the entry into force of the Convention for that Party, or of the availability of financial resources in accordance with Article 4, paragraph 3. Parties that are least developed countries may make their initial communication at their discretion. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties, taking into account the differentiated timetable set by this paragraph.

6. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Conference of the Parties and to any subsidiary bodies concerned. If necessary, the procedures for the communication of information may be further considered by the Conference of the Parties.

7. From its first session, the Conference of the Parties shall arrange for the provision to developing country Parties of technical and financial support, on request, in compiling and communicating information under this Article, as well as in identifying the technical and financial needs associated with proposed projects and response measures under Article 4. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate.

8. Any group of Parties may, subject to guidelines adopted by the Conference of the Parties, and to prior notification to the Conference of the Parties, make a joint communication in fulfilment of their obligations under this Article, provided that such a communication includes information on the fulfilment by each of these Parties of its individual obligations under the Convention.

9. Information received by the secretariat that is designated by a Party as confidential, in accordance with criteria to be established by the Conference of the Parties, shall be aggregated by the secretariat to protect its confidentiality before being made available to any of the bodies involved in the communication and review of information.

10. Subject to paragraph 9 above, and without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make communications by Parties under this Article publicly available at the time they are submitted to the Conference of the Parties.

Article 13
Resolution of Questions Regarding Implementation

The Conference of the Parties shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention.

Article 14
Settlement of Disputes

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party

which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Convention, it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice, and/or

(b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration. A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute otherwise agree.

5. Subject to the operation of paragraph 2 above, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a recommendatory award, which the parties shall consider in good faith.

7. Additional procedures relating to conciliation shall be adopted by the Conference of the Parties, as soon as practicable, in an annex on conciliation.

8. The provisions of this Article shall apply to any related legal instrument which the Conference of the Parties may adopt, unless the instrument provides otherwise.

Article 15
Amendments to the Convention

1. Any Party may propose amendments to the Convention.

2. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 16
Adoption and Amendment of Annexes to the Convention

1. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto. Without prejudice to the provisions of Article 14, paragraphs 2(b) and 7, such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Annexes to the Convention shall be proposed and adopted in accordance with the procedure set forth in Article 15, paragraphs 2, 3 and 4.

3. An annex that has been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Convention six months after the date of the communication by the Depositary to such Parties of the adoption of the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex. The annex

shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

4. The proposal, adoption and entry into force of amendments to annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of annexes to the Convention in accordance with paragraphs 2 and 3 above.

5. If the adoption of an annex or an amendment to an annex involves an amendment to the Convention, that annex or amendment to an annex shall not enter into force until such time as the amendment to the Convention enters into force.

Article 17
Protocols

1. The Conference of the Parties may, at any ordinary session, adopt protocols to the Convention.

2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session.

3. The requirements for the entry into force of any protocol shall be established by that instrument.

4. Only Parties to the Convention may be Parties to a protocol.

5. Decisions under any protocol shall be taken only by the Parties to the protocol concerned.

Article 18
Right to Vote

1. Each Party to the Convention shall have one vote, except as provided for in paragraph 2 below.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 19
Depositary

The Secretary-General of the United Nations shall be the Depositary of the Convention and of protocols adopted in accordance with Article 17.

Article 20
Signature

This Convention shall be open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations at Rio de Janeiro, during the United Nations Conference on Environment and Development, and thereafter at United Nations Headquarters in New York from 20 June 1992 to 19 June 1993.

Article 21
Interim Arrangements

1. The secretariat functions referred to in Article 8 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 45/212 of 21 December 1990, until the completion of the first session of the Conference of the Parties.

2. The head of the interim secretariat referred to in paragraph 1 above will cooperate closely with the Intergovernmental Panel on Climate Change to ensure that the Panel can respond to the need for objective scientific and technical advice. Other relevant scientific bodies could also be consulted.

3. The Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis. In this connection, the Global Environment Facility should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11.

Article 22
Ratification, Acceptance, Approval or Accession

1. The Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 23
Entry Into Force

1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 24
Reservations

No reservations may be made to the Convention.

Article 25
Withdrawal

1. At any time after three years from the date on which the Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 26
Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at New York this ninth day of May one thousand nine hundred and ninety-two.

Annex I

Australia
Austria
Belarus a/
Belgium
Bulgaria a/
Canada
Czechoslovakia a/
Denmark
European Economic Community
Estonia a/
Finland
France
Germany
Greece
Hungary a/
Iceland
Ireland
Italy
Japan
Latvia a/
Lithuania a/
Luxembourg
Netherlands
New Zealand
Norway
Poland a/
Portugal
Romania a/
Russian Federation a/
Spain
Sweden
Switzerland
Turkey
Ukraine a/
United Kingdom of Great
Britain and Northern Ireland
United States of America

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a/ Countries that are undergoing the process of transition to a market economy.

Annex II

Australia
Austria
Belgium
Canada
Denmark
European Economic Community
Finland
France
Germany
Greece
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great
Britain and Northern Ireland
United States of America

34. KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

The Parties to this Protocol,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention",

In pursuit of the ultimate objective of the Convention as stated in its Article 2,

Recalling the provisions of the Convention,

Being guided by Article 3 of the Convention,

Pursuant to the Berlin Mandate adopted by decision 1/CP.1 of the Conference of the Parties to the Convention at its first session,

Have agreed as follows:

Article 1

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. "Conference of the Parties" means the Conference of the Parties to the Convention.

2. "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.

3. "Intergovernmental Panel on Climate Change" means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.

4. "Montreal Protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.

5. "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. "Party" means, unless the context otherwise indicates, a Party to this Protocol.

7. "Party included in Annex I" means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2(g), of the Convention.

Article 2

1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:

(a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:
(i) Enhancement of energy efficiency in relevant sectors of the national economy;
(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;
(iii) Promotion of sustainable forms of agriculture in light of climate change considerations;
(iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;
(v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;
(vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;
(vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector;
(viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy;

(b) Cooperate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted under this Article, pursuant to Article 4, paragraph 2(e)(i), of the Convention. To this end, these Parties shall take steps to share their experience and exchange information on such policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The Conference of Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, consider ways to facilitate such cooperation, taking into account all relevant information.

2. The Parties included in Annex I shall pursue

limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.

3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1(a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures.

Article 3

1. The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.

2. Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol.

3. The net changes in greenhouse gas emissions by sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks in each commitment period, shall be used to meet the commitments under this Article of each Party included in Annex I. The greenhouse gas emissions by sources and removals by sinks associated with those activities shall be reported in a transparent and verifiable manner and reviewed in accordance with Articles 7 and 8.

4. Prior to the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol, each Party included in Annex I shall provide, for consideration by the Subsidiary Body for Scientific and Technological Advice, data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, decide upon modalities, rules and guidelines as to how, and which, additional human-induced activities related to changes in greenhouse gas emissions by sources and removals by sinks in the agricultural soils and the land-use change and forestry categories shall be added to, or subtracted from, the assigned amounts for Parties included in Annex I, taking into account uncertainties, transparency in reporting, verifiability, the methodological work of the Intergovernmental Panel on Climate Change, the advice provided by the Subsidiary Body for Scientific and Technological Advice in accordance with Article 5 and the decisions of the Conference of the Parties. Such a decision shall apply in the second and subsequent commitment periods. A Party may choose to apply such a decision on these additional human-induced activities for its first commitment period, provided that these activities have taken place since 1990.

5. The Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session shall use that base year or period for the implementation of their commitments under this Article. Any other Party included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12 of the Convention may also notify the Conference of the Parties serving as the meeting of the Parties to this Protocol that it intends to use an historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall decide on the acceptance of such notification.

6. Taking into account Article 4, paragraph 6, of the Convention, in the implementation of their commitments under this Protocol other than those under this Article, a certain degree of flexibility shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol to the Parties included in Annex I undergoing the process of transition to a market economy.

7. In the first quantified emission limitation and reduction commitment period, from 2008 to 2012, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by

five. Those Parties included in Annex I for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990 shall include in their 1990 emissions base year or period the aggregate anthropogenic carbon dioxide equivalent emissions by sources minus removals by sinks in 1990 from land-use change for the purposes of calculating their assigned amount.

8. Any Party included in Annex I may use 1995 as its base year for hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, for the purposes of the calculation referred to in paragraph 7 above.

9. Commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate the consideration of such commitments at least seven years before the end of the first commitment period referred to in paragraph 1 above.

10. Any emission reduction units, or any part of an assigned amount, which a Party acquires from another Party in accordance with the provisions of Article 6 or of Article 17 shall be added to the assigned amount for the acquiring Party.

11. Any emission reduction units, or any part of an assigned amount, which a Party transfers to another Party in accordance with the provisions of Article 6 or of Article 17 shall be subtracted from the assigned amount for the transferring Party.

12. Any certified emission reductions which a Party acquires from another Party in accordance with the provisions of Article 12 shall be added to the assigned amount for the acquiring Party.

13. If the emissions of a Party included in Annex I in a commitment period are less than its assigned amount under this Article, this difference shall, on request of that Party, be added to the assigned amount for that Party for subsequent commitment periods.

14. Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology.

Article 4

1. Any Parties included in Annex I that have reached an agreement to fulfil their commitments under Article 3 jointly, shall be deemed to have met those commitments provided that their total combined aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of Article 3. The respective emission level allocated to each of the Parties to the agreement shall be set out in that agreement.

2. The Parties to any such agreement shall notify the secretariat of the terms of the agreement on the date of deposit of their instruments of ratification, acceptance or approval of this Protocol, or accession thereto. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of the agreement.

3. Any such agreement shall remain in operation for the duration of the commitment period specified in Article 3, paragraph 7.

4. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization, any alteration in the composition of the organization after adoption of this Protocol shall not affect existing commitments under this Protocol. Any alteration in the composition of the organization shall only apply for the purposes of those commitments under Article 3 that are adopted subsequent to that alteration.

5. In the event of failure by the Parties to such an agreement to achieve their total combined level of emission reductions, each Party to that agreement shall be responsible for its own level of emissions set out in the agreement.

6. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Protocol, each member State of that regional economic integration organization individually, and together with the regional economic integration organization acting in accordance with Article 24, shall, in the event of failure to achieve the total combined level of emission reductions, be responsible for its level of emissions as notified in accordance with this Article.

Article 5

1. Each Party included in Annex I shall have in place, no later than one year prior to the start of the first commitment period, a national system for the

estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems, which shall incorporate the methodologies specified in paragraph 2 below, shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

2. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

3. The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise the global warming potential of each such greenhouse gas, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

Article 6

1. For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provide that:

(a) Any such project has the approval of the Parties involved;

(b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;

(c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and

(d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol may, at its first session or as soon as practicable thereafter, further elaborate guidelines for the implementation of this Article, including for verification and reporting.

3. A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

4. If a question of implementation by a Party included in Annex I of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

Article 7

1. Each Party included in Annex I shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, submitted in accordance with the relevant decisions of the Conference of the Parties, the necessary supplementary information for the purposes of ensuring compliance with Article 3, to be determined in accordance with paragraph 4 below.

2. Each Party included in Annex I shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under this Protocol, to be determined in accordance with paragraph 4 below.

3. Each Party included in Annex I shall submit the information required under paragraph 1 above

annually, beginning with the first inventory due under the Convention for the first year of the commitment period after this Protocol has entered into force for that Party. Each such Party shall submit the information required under paragraph 2 above as part of the first national communication due under the Convention after this Protocol has entered into force for it and after the adoption of guidelines as provided for in paragraph 4 below. The frequency of subsequent submission of information required under this Article shall be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, taking into account any timetable for the submission of national communications decided upon by the Conference of the Parties.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of national communications by Parties included in Annex I adopted by the Conference of the Parties. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall also, prior to the first commitment period, decide upon modalities for the accounting of assigned amounts.

Article 8

1. The information submitted under Article 7 by each Party included in Annex I shall be reviewed by expert review teams pursuant to the relevant decisions of the Conference of the Parties and in accordance with guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol under paragraph 4 below. The information submitted under Article 7, paragraph 1, by each Party included in Annex I shall be reviewed as part of the annual compilation and accounting of emissions inventories and assigned amounts. Additionally, the information submitted under Article 7, paragraph 2, by each Party included in Annex I shall be reviewed as part of the review of communications.

2. Expert review teams shall be coordinated by the secretariat and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with guidance provided for this purpose by the Conference of the Parties.

3. The review process shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol, assessing the implementation of the commitments of the Party and identifying any potential problems in, and factors influencing, the fulfilment of commitments. Such reports shall be circulated by the secretariat to all Parties to the Convention. The secretariat shall list those questions of implementation indicated in such reports for further consideration by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the review of implementation of this Protocol by expert review teams taking into account the relevant decisions of the Conference of the Parties.

5. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, with the assistance of the Subsidiary Body for Implementation and, as appropriate, the Subsidiary Body for Scientific and Technological Advice, consider:

(a) The information submitted by Parties under Article 7 and the reports of the expert reviews thereon conducted under this Article; and

(b) Those questions of implementation listed by the secretariat under paragraph 3 above, as well as any questions raised by Parties.

6. Pursuant to its consideration of the information referred to in paragraph 5 above, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take decisions on any matter required for the implementation of this Protocol.

Article 9

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts, as well as relevant technical, social and economic information. Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2(d), and Article 7, paragraph 2(a), of the Convention. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action.

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Further reviews shall take place at regular intervals and in a timely manner.

Article 10

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for Parties not included in Annex I, but reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into

account Article 4, paragraphs 3, 5 and 7, of the Convention, shall:

(a) Formulate, where relevant and to the extent possible, cost-effective national and, where appropriate, regional programmes to improve the quality of local emission factors, activity data and/or models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties, and consistent with the guidelines for the preparation of national communications adopted by the Conference of the Parties;

(b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change:

(i) Such programmes would, *inter alia*, concern the energy, transport and industry sectors as well as agriculture, forestry and waste management. Furthermore, adaptation technologies and methods for improving spatial planning would improve adaptation to climate change; and
(ii) Parties included in Annex I shall submit information on action under this Protocol, including national programmes, in accordance with Article 7; and other Parties shall seek to include in their national communications, as appropriate, information on programmes which contain measures that the Party believes contribute to addressing climate change and its adverse impacts, including the abatement of increases in greenhouse gas emissions, and enhancement of and removals by sinks, capacity building and adaptation measures;

(c) Cooperate in the promotion of effective modalities for the development, application and diffusion of, and take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain and the creation of an enabling environment for the private sector, to promote and enhance the transfer of, and access to, environmentally sound technologies;

(d) Cooperate in scientific and technical research and promote the maintenance and the development of systematic observation systems and development of data archives to reduce uncertainties related to the climate system, the adverse impacts of climate change and the economic and social consequences of various response strategies, and promote the development and strengthening of endogenous capacities and capabilities to participate in international and intergovernmental efforts, programmes and networks on research and systematic observation, taking into account Article 5 of the Convention;

(e) Cooperate in and promote at the international level, and, where appropriate, using existing bodies, the development and implementation of education and training programmes, including the strengthening of national capacity building, in particular human and institutional capacities and the exchange or secondment of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness of, and public access to information on, climate change. Suitable modalities should be developed to implement these activities through the relevant bodies of the Convention, taking into account Article 6 of the Convention;

(f) Include in their national communications information on programmes and activities undertaken pursuant to this Article in accordance with relevant decisions of the Conference of the Parties; and

(g) Give full consideration, in implementing the commitments under this Article, to Article 4, paragraph 8, of the Convention.

Article 11

1. In the implementation of Article 10, Parties shall take into account the provisions of Article 4, paragraphs 4, 5, 7, 8 and 9, of the Convention.

2. In the context of the implementation of Article 4, paragraph 1, of the Convention, in accordance with the provisions of Article 4, paragraph 3, and Article 11 of the Convention, and through the entity or entities entrusted with the operation of the financial mechanism of the Convention, the developed country Parties and other developed Parties included in Annex II to the Convention shall:

(a) Provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in advancing the implementation of existing commitments under Article 4, paragraph 1(a), of the Convention that are covered in Article 10, subparagraph (a); and

(b) Also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full

incremental costs of advancing the implementation of existing commitments under Article 4, paragraph 1, of the Convention that are covered by Article 10 and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention, in accordance with that Article.

The implementation of these existing commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among developed country Parties. The guidance to the entity or entities entrusted with the operation of the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply *mutatis mutandis* to the provisions of this paragraph.

3. The developed country Parties and other developed Parties in Annex II to the Convention may also provide, and developing country Parties avail themselves of, financial resources for the implementation of Article 10, through bilateral, regional and other multilateral channels.

Article 12

1. A clean development mechanism is hereby defined.

2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

(a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

(b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism.

5. Emission reductions resulting from each project activity shall be certified by operational entities to be designated by the Conference of the Parties serving as the meeting of the Parties to this Protocol, on the basis of:

(a) Voluntary participation approved by each Party involved;

(b) Real, measurable, and long-term benefits related to the mitigation of climate change; and

(c) Reductions in emissions that are additional to any that would occur in the absence of the certified project activity.

6. The clean development mechanism shall assist in arranging funding of certified project activities as necessary.

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

9. Participation under the clean development mechanism, including in activities mentioned in paragraph 3(a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism.

10. Certified emission reductions obtained during the period from the year 2000 up to the beginning of the first commitment period can be used to assist in achieving compliance in the first commitment period.

Article 13

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of

the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Assess, on the basis of all information made available to it in accordance with the provisions of this Protocol, the implementation of this Protocol by the Parties, the overall effects of the measures taken pursuant to this Protocol, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(b) Periodically examine the obligations of the Parties under this Protocol, giving due consideration to any reviews required by Article 4, paragraph 2(d), and Article 7, paragraph 2, of the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge, and in this respect consider and adopt regular reports on the implementation of this Protocol;

(c) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(d) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(e) Promote and guide, in accordance with the objective of the Convention and the provisions of this Protocol, and taking fully into account the relevant decisions by the Conference of the Parties, the development and periodic refinement of comparable methodologies for the effective implementation of this Protocol, to be agreed on by the Conference of the Parties serving as the meeting of the Parties to this Protocol;

(f) Make recommendations on any matters necessary for the implementation of this Protocol;

(g) Seek to mobilize additional financial resources in accordance with Article 11, paragraph 2;

(h) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(i) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and

(j) Exercise such other functions as may be required for the implementation of this Protocol, and consider any assignment resulting from a decision by the Conference of the Parties.

5. The rules of procedure of the Conference of the Parties and financial procedures applied under the Convention shall be applied *mutatis mutandis* under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held every year and in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Protocol and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Protocol as an observer, may be so admitted unless at least one third

of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 14

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Protocol. The secretariat shall, in addition, exercise the functions assigned to it under this Protocol.

Article 15

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve as, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol. The provisions relating to the functioning of these two bodies under the Convention shall apply *mutatis mutandis* to this Protocol. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Protocol, any member of the Bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the parties to this protocol.

Article 16

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, as soon as practicable, consider the application to this Protocol of, and modify as appropriate, the multilateral consultative process referred to in Article 13 of the Convention, in the light of any relevant decisions that may be taken by the Conference of the Parties. Any multilateral consultative process that may be applied to this Protocol shall operate without prejudice to the procedures and mechanisms established in accordance with Article 18.

Article 17

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article.

Article 18

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol.

Article 19

The provisions of Article 14 of the Convention on settlement of disputes shall apply *mutatis mutandis* to this Protocol.

Article 20

1. Any Party may propose amendments to this Protocol.

2. Amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having

accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to this Protocol.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 21

1. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Any annexes adopted after the entry into force of this Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.

3. Annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary.

4. The Parties shall make every effort to reach agreement on any proposed annex or amendment to an annex by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the annex or amendment to an annex shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted annex or amendment to an annex shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

5. An annex, or amendment to an annex other than Annex A or B, that has been adopted in accordance with paragraphs 3 and 4 above shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex or adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex or amendment to the annex. The annex or amendment to an annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

6. If the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to this Protocol enters into force.

7. Amendments to Annexes A and B to this Protocol shall be adopted and enter into force in accordance with the procedure set out in Article 20, provided that any amendment to Annex B shall be adopted only with the written consent of the Party concerned.

Article 22

1. Each Party shall have one vote, except as provided for in paragraph 2 below.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 23

The Secretary-General of the United Nations shall be the Depositary of this Protocol.

Article 24

1. This Protocol shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention. It shall be open for signature at United Nations Headquarters in New York from 16 March 1998 to 15 March 1999. This Protocol shall be open for accession from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to this Protocol without any of its member States being a Party shall be bound by all the obligations under this Protocol. In the case of such organizations, one or more of whose member States is a Party to this Protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under this Protocol concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 25

1. This Protocol shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 per cent of the total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession.

2. For the purposes of this Article, "the total carbon dioxide emissions for 1990 of the Parties included in Annex I" means the amount communicated on or before the date of adoption of this Protocol by the Parties included in Annex I in their first national communications submitted in accordance with Article 12 of the Convention.

3. For each State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after the conditions set out in paragraph 1 above for entry into force have been fulfilled, this Protocol shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 26

No reservations may be made to this Protocol.

Article 27

1. At any time after three years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from this Protocol by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Protocol.

Article 28

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

DONE at Kyoto this eleventh day of December one thousand nine hundred and ninety-seven.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have affixed their signatures to this Protocol on the dates indicated.

Annex A

Greenhouse gases

Carbon dioxide (CO2)
Methane (CH4)
Nitrous oxide (N2O)
Hydrofluorocarbons (HFCs)
Perfluorocarbons (PFCs)
Sulphur hexafluoride (SF6)

Sectors/source categories

Energy
- Fuel combustion
- Energy industries
- Manufacturing industries and construction
- Transport
- Other sectors
- Other
- Fugitive emissions from fuels
- Solid fuels
- Oil and natural gas
- Other

Industrial processes
- Mineral products
- Chemical industry
- Metal production
- Other production
- Production of halocarbons and sulphur hexafluoride
- Consumption of halocarbons and sulphur hexafluoride
- Other

Solvent and other product use

Agriculture
- Enteric fermentation
- Manure management
- Rice cultivation
- Agricultural soils
- Prescribed burning of savannas
- Field burning of agricultural residues
- Other

Waste
- Solid waste disposal on land
- Wastewater handling
- Waste incineration
- Other

Annex B

Party	Quantified emission limitation or reduction commitment (percentage of base year or period)
Australia	108
Austria	92
Belgium	92
Bulgaria*	92
Canada	94
Croatia*	95
Czech Republic*	92
Denmark	92
Estonia*	92
European Community	92
Finland	92
France	92
Germany	92
Greece	92
Hungary*	94
Iceland	110
Ireland	92
Italy	92
Japan	94
Latvia*	92
Liechtenstein	92
Lithuania*	92
Luxembourg	92
Monaco	92
Netherlands	92
New Zealand	100
Norway	101
Poland*	94
Portugal	92
Romania*	92
Russian Federation*	100
Slovakia*	92
Slovenia*	92
Spain	92
Sweden	92
Switzerland	92
Ukraine*	100
United Kingdom of Great Britain and Northern Ireland	92
United States of America	93

* Countries that are undergoing the process of transition to a market economy.

35. CONVENTION ON CIVIL LIABILITY FOR DAMAGE RESULTING FROM ACTIVITIES DANGEROUS TO THE ENVIRONMENT

The member States of the Council of Europe, the other States and the European Economic Community signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Noting that one of the objectives of the Council of Europe is to contribute to the quality of life of human beings, in particular by promoting a natural, healthy and agreeable environment;

Considering the wish of the Council of Europe to co-operate with other States in the field of nature conservation and protection of the environment;

Realising that man, the environment and property are exposed to specific dangers caused by certain activities;

Considering that emissions released in one country may cause damage in another country and that, therefore, the problems of adequate compensation for such damage are also of an international nature;

Having regard to the desirability of providing for strict liability in this field taking into account the "Polluter Pays" Principle;

Mindful of the work which has already been carried out at an international level, in particular to prevent damage and to deal with damage caused by nuclear substances and the carriage of dangerous goods;

Having noted Principle 13 of the 1992 Rio Declaration on Environment and Development, according to which "States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage; they shall also co-operate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction";

Recognising the need to adopt further measures to deal with grave and imminent threats of damage from dangerous activities and to facilitate the burden of proof for persons requesting compensation for such damage,

Have agreed as follows:

CHAPTER I
GENERAL PROVISIONS

Article 1
Object and purpose

This Convention aims at ensuring adequate compensation for damage resulting from activities dangerous to the environment and also provides for means of prevention and reinstatement.

Article 2
Definitions for the purpose of this Convention

1. "Dangerous activity" means one or more of the following activities provided that it is performed professionally, including activities conducted by public authorities:

(a) the production, handling, storage, use or discharge of one or more dangerous substances or any operation of a similar nature dealing with such substances;

(b) the production, culturing, handling, storage, use, destruction, disposal, release or any other operation dealing with one or more:
  (i) genetically modified organisms which as a result of the properties of the organism, the genetic modification and the conditions under which the operation is exercised, pose a significant risk for man, the environment or property;
  (ii) micro-organisms which as a result of their properties and the conditions under which the operation is exercised pose a significant risk for man, the environment or property, such as those micro-organisms which are pathogenic or which produce toxins;

(c) the operation of an installation or site for the incineration, treatment, handling or recycling of waste, such as those installations or sites specified in Annex II, provided that the quantities involved pose a significant risk for man, the environment or property;

(d) the operation of a site for the permanent deposit of waste.

2. "Dangerous substance" means:

(a) substances or preparations which have properties which constitute a significant risk for man, the environment or property. A substance or preparation which is ex-plosive, oxidizing, extremely flammable, highly flammable, flammable, very toxic, toxic, harmful, corrosive, irritant, sensitizing, carcinogenic, mutagenic, toxic for reproduction or dangerous for the environment within the meaning of Annex I, Part A to this Convention shall in any event be deemed to constitute such a risk;

(b) substances specified in Annex I, Part B to this Convention. Without prejudice to the application of sub-paragraph a above, Annex I, Part B may

restrict the specification of dangerous substances to certain quantities or concentrations, certain risks or certain situations.

3. "Genetically modified organism" means any organism in which the genetic material has been altered in a way which does not occur naturally by mating and/or natural recombination. However, the following genetically modified organisms are not covered by the Convention:

(a) organisms obtained by mutagenesis on condition that the genetic modification does not involve the use of genetically modified organisms as recipient organisms; and

(b) plants obtained by cell fusion (including protoplast fusion) if the resulting plant can also be produced by traditional breeding methods and on condition that the genetic modification does not involve the use of genetically modified organisms as parental organisms.

4. "Organism" refers to any biological entity capable of replication or of transferring genetic material.

5. "Micro-organism" means any microbiological entity, cellular or non-cellular, capable of replication or of transferring genetic material.

6. "Operator" means the person who exercises the control of a dangerous activity.

7. "Person" means any individual or partnership or any body governed by public or private law, whether corporate or not, including a State or any of its constituent subdivisions.

8. "Damage" means:

(a) loss of life or personal injury;

(b) loss of or damage to property other than to the installation itself or property held under the control of the operator, at the site of the dangerous activity;

(c) loss or damage by impairment of the environment in so far as this is not considered to be damage within the meaning of sub-paragraphs a or b above provided that compensation for impairment of the environment, other than for loss of profit from such impairment, shall be limited to the costs of measures of reinstatement actually undertaken or to be undertaken;

(d) the costs of preventive measures and any loss or damage caused by preventive measures,

(e) to the extent that the loss or damage referred to in sub-paragraphs a to c of this paragraph arises out of or results from the hazardous properties of the dangerous substances, genetically modified organisms or micro-organisms or arises or results from waste.

9. "Measures of reinstatement" means any reasonable measures aiming to reinstate or restore damaged or destroyed components of the environment, or to introduce, where reasonable, the equivalent of these components into the environment. Internal law may indicate who will be entitled to take such measures.

10. "Preventive measures" means any reasonable measures taken by any person, after an incident has occurred to prevent or minimise loss or damage as referred to in paragraph 7, sub-paragraphs a to c of this article.

11. "Environment" includes:

(a) natural resources both abiotic and biotic, such as air, water, soil, fauna and flora and the interaction between the same factors;

(b) property which forms part of the cultural heritage; and

(c) the characteristic aspects of the landscape.

12. "Incident" means any sudden occurrence or continuous occurrence or any series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

Article 3
Geographical scope

Without prejudice to the provisions of Chapter III, this Convention shall apply:

(a) when the incident occurs in the territory of a Party, as determined in accordance with Article 34, regardless of where the damage is suffered;

(b) when the incident occurs outside the territory referred to in sub-paragraph a above and the conflict of laws rules lead to the application of the law in force for the territory referred to in sub-paragraph a above.

Article 4
Exceptions

1. This Convention shall not apply to damage arising from carriage; carriage includes the period from the beginning of the process of loading until the end of the process of unloading. However, the Convention shall apply to carriage by pipeline, as well as to carriage performed entirely in an installation or on a site unaccessible to the public where it is accessory to other activities and is an integral part thereof.

2. This Convention shall not apply to damage caused by a nuclear substance:

(a) arising from a nuclear incident the liability of which is regulated either by the Paris Convention of 29 July 1960 on third party liability in the field of nuclear energy, and its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on civil liability for nuclear damage; or

(b) if liability for such damage is regulated by a specific internal law, provided that such law is as favourable, with regard to compensation for damage, as any of the instruments referred to under sub-paragraph a above.

3. This Convention shall not apply to the extent that it is incompatible with the rules of the applicable law relating to workmen's compensation or social security schemes.

CHAPTER II
LIABILITY

Article 5
Transitional provisions

1. The provisions of this chapter shall apply to incidents occurring after the entry into force of the Convention in respect of a Party. When the incident consists of a continuous occurrence or a series of occurrences having the same origin and part of these occurrences took place before the entry into force of this Convention, this chapter shall only apply to damage caused by occurrences or part of a continuous occurrence taking place after the entry into force.

2. In respect of damage caused by waste deposited at a site for the permanent deposit of waste the provisions of this chapter shall apply to damage which becomes known after the entry into force of the Convention in respect of the Party on the territory of which the site is situated. However this chapter shall not apply if:

(a) the site was closed in accordance with the provisions of internal law before the entry into force of the Convention;

(b) the operator proves, in the case where the operation of the site continues after that entry into force of the Convention, that the damage was caused solely by waste deposited there before that entry into force.

Article 6
Liability in respect of substances, organisms and certain waste installations or sites

1. The operator in respect of a dangerous activity mentioned under Article 2, paragraph 1, sub-paragraphs a to c shall be liable for the damage caused by the activity as a result of incidents at the time or during the period when he was exercising the control of that activity.

2. If an incident consists of a continuous occurrence, all operators successively exercising the control of the dangerous activity during that occurrence shall be jointly and severally liable. However, the operator who proves that the occurrence during the period when he was exercising the control of the dangerous activity caused only a part of the damage shall be liable for that part of the damage only.

3. If an incident consists of a series of occurrences having the same origin, the operators at the time of any such occurrence shall be jointly and severally liable. However, the operator who proves that the occurrence at the time when he was exercising the control of the dangerous activity caused only a part of the damage shall be liable for that part of the damage only.

4. If the damage resulting from a dangerous activity becomes known after all such dangerous activity in the installation or on the site has ceased, the last operator of this activity shall be liable for that damage unless he or the person who suffered damage proves that all or part of the damage resulted from an incident which occurred at a time before he became the operator. If it is so proved, the provisions of paragraphs 1 to 3 of this article shall apply.

5. Nothing in this Convention shall prejudice any right of recourse of the operator against any third party.

Article 7
Liability in respect of sites for the permanent deposit of waste

1. The operator of a site for the permanent deposit of waste at the time when damage caused by waste deposited at that site becomes known, shall be liable for this damage. Should the damage caused by waste deposited before the closure of such a site become known after that closure, the last operator shall be liable.

2. Liability under this article shall apply to the exclusion of any liability of the operator under Article 6, irrespective of the nature of the waste.

3. Liability under this article shall apply to the exclusion of any liability of the operator under Article 6 if the same operator conducts another dangerous activity on the site for the permanent deposit of waste.

4. However, if this operator or the person who has suffered damage proves that only a part of the damage was caused by the activity concerning the permanent deposit of waste, this article shall only apply to that part of the damage.

5. Nothing in this Convention shall prejudice any right of recourse of the operator against any third party.

Article 8
Exemptions

The operator shall not be liable under this Convention for damage which he proves:

(a) was caused by an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;

(b) was caused by an act done with the intent to cause damage by a third party, despite safety measures appropriate to the type of dangerous activity in question;

(c) resulted necessarily from compliance with a specific order or compulsory measure of a public authority;

(d) was caused by pollution at tolerable levels under local relevant circumstances; or

(e) was caused by a dangerous activity taken lawfully in the interests of the person who suffered the damage, whereby it was reasonable towards this person to expose him to the risks of the dangerous activity.

Article 9
Fault of the person who suffered the damage

If the person who suffered the damage or a person for whom he is responsible under internal law, has, by his own fault, contributed to the damage, the compensation may be reduced or disallowed having regard to all the circumstances.

Article 10
Causality

When considering evidence of the causal link between the incident and the damage or, in the context of a dangerous activity as defined in Article 2, paragraph 1, sub-paragraph d, between the activity and the damage, the court shall take due account of the increased danger of causing such damage inherent in the dangerous activity.

Article 11
Plurality of installations or sites

When damage results from incidents which have occurred in several installations or on several sites where dangerous activities are conducted or from dangerous activities under Article 2, paragraph 1, sub-paragraph d, the operators of the installations or sites concerned shall be jointly and severally liable for all such damage. However, the operator who proves that only part of the damage was caused by an incident in the installation or on the site where he conducts the dangerous activity or by a dangerous activity under Article 2, paragraph 1, sub-paragraph d, shall be liable for that part of the damage only.

Article 12
Compulsory financial security scheme

Each Party shall ensure that where appropriate, taking due account of the risks of the activity, operators conducting a dangerous activity on its territory be required to participate in a financial security scheme or to have and maintain a financial guarantee up to a certain limit, of such type and terms as specified by internal law, to cover the liability under this Convention.

CHAPTER III
ACCESS TO INFORMATION

Article 13
Definition of public authorities

For the purpose of this chapter "public authorities" means any public administration of a Party at national, regional or local level with responsibilities, and possessing information relating to the environment, with the exception of bodies acting in a judicial or legislative capacity.

Article 14
Access to information held by public authorities

1. Any person shall, at his request and without his having to prove an interest, have access to information relating to the environment held by public authorities.

2. The Parties shall define the practical arrangements under which such information is effectively made available.

3. The right of access may be restricted under internal law where it affects:

(a) the confidentiality of the proceedings of public authorities, international relations and national defence;

(b) public security;

(c) matters which are or have been *sub judice*, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;

(d) commercial and industrial confidentiality, including intellectual property;

(e) the confidentiality of personal data and/or files;

(f) material supplied by a third party without that party being under a legal obligation to do so; or

(g) material, the disclosure of which would make it more likely that the environment to which that material related would be damaged.

4. Information held by public authorities shall be supplied in part where it is possible to separate

out information on items concerning the interests referred to above.

5. A request for information may be refused where it would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.

6. A public authority shall respond to a person requesting information as soon as possible and at the latest within two months. The reasons for a refusal to provide the information requested must be given.

7. A person who considers that his request for information has been unreasonably refused or ignored, or has been inadequately answered by a public authority, may seek a judicial or administrative review of the decision, in accordance with the relevant internal legal system.

8. The Parties may make a charge for supplying the information, but such a charge may not exceed a reasonable cost.

Article 15
Access to information held by bodies with public responsibilities for the environment

On the same terms and conditions as those set out in Article 14 any person shall have access to information relating to the environment held by bodies with public responsibilities for the environment and under the control of a public authority. Access shall be given via the competent public administration or directly by the bodies themselves.

Article 16
Access to specific information held by operators

1. The person who suffered the damage may, at any time, request the court to order an operator to provide him with specific information, in so far as this is necessary to establish the existence of a claim for compensation under this Convention.

2. Where, under this Convention, a claim for compensation is made to an operator, whether or not in the framework of judicial proceedings, this operator may request the court to order another operator to provide him with specific information, in so far as this is necessary to establish the extent of his possible obligation to compensate the person who has suffered the damage, or of his own right to compensation from the other operator.

3. The operator shall be required to provide information under paragraphs 1 and 2 of this article concerning the elements which are available to him and dealing essentially with the particulars of the equipment, the machinery used, the kind and concentration of the dangerous substances or waste as well as the nature of genetically modified organisms or micro-organisms.

4. These measures shall not affect measures of investigation which may legally be ordered under internal law.

5. The court may refuse a request which places a disproportionate burden on the operator, taking into account all the interests involved.

6. In addition to the restrictions under Article 14, paragraph 2 of this Convention, which shall apply *mutatis mutandis*, the operator may refuse to provide information where such information would incriminate him.

7. Any reasonable charge shall be paid by the person requesting the information. The operator may require an appropriate guarantee for such payment. However a court, when allowing a claim for compensation, may establish that this charge shall be borne by the operator, except to the extent that the request resulted in unnecessary costs.

CHAPTER IV
ACTIONS FOR COMPENSATION AND OTHER CLAIMS

Article 17
Limitation periods

1. Actions for compensation under this Convention shall be subject to a limitation period of three years from the date on which the claimant knew or ought reasonably to have known of the damage and of the identity of the operator. The laws of the Parties regulating suspension or interruption of limitation periods shall apply to the limitation period prescribed in this paragraph.

2. However, in no case shall actions be brought after thirty years from the date of the incident which caused the damage. Where the incident consists of a continuous occurrence the thirty years' period shall run from the end of that occurrence. Where the incident consists of a series of occurrences having the same origin the thirty years' period shall run from the date of the last of such occurrences. In respect of a site for the permanent deposit of waste the thirty years' period shall at the latest run from the date on which the site was closed in accordance with the provisions of internal law.

Article 18
Requests by organisations

1. Any association or foundation which according to its statutes aims at the protection of the environment and which complies with any further conditions of internal law of the Party where the request is submitted may, at any time, request:

(a) the prohibition of a dangerous activity which is unlawful and poses a grave threat of damage to the environment;

(b) that the operator be ordered to take measures to prevent an incident or damage;

(c) that the operator be ordered to take measures, after an incident, to prevent damage; or

(d) that the operator be ordered to take measures of reinstatement.

2. Internal law may stipulate cases where the request is inadmissible.

3. Internal law may specify the body, whether administrative or judicial, before which the request referred to in paragraph 1 above should be made. In all cases provision shall be made for a right of review.

4. Before deciding upon a request mentioned under paragraph 1 above the requested body may, in view of the general interests involved, hear the competent public authorities.

5. When the internal law of a Party requires that the association or foundation has its registered seat or the effective centre of its activities in its territory, the Party may declare at any time, by means of a notification addressed to the Secretary General of the Council of Europe, that, on the basis of reciprocity, an association or foundation having its seat or centre of activities in the territory of another Party and complying in that other Party with the other conditions mentioned in paragraph 1 above shall have the right to submit requests in accordance with paragraphs 1 to 3 above. The declaration will become effective on the first day of the month following the expiration of a period of three months after the date of its reception by the Secretary General.

Article 19
Jurisdiction

1. Actions for compensation under this Convention may only be brought within a Party at the court of the place:

(a) where the damage was suffered;

(b) where the dangerous activity was conducted; or

(c) where the defendant has his habitual residence.

2. Requests for access to specific information held by operators under Article 16, paragraphs 1 and 2 may only be submitted within a Party at the court of the place:

(a) where the dangerous activity is conducted; or

(b) where the operator who may be required to provide the information has his habitual residence.

3. Requests by organisations under Article 18, paragraph 1, sub-paragraph a may only be submitted within a Party at the court or, if internal law so provides, at a competent administrative authority of the place where the dangerous activity is or will be conducted.

4. Requests by organisations under Article 18, paragraph 1, sub-paragraphs b, c and d may only be submitted within a Party at the court or, if internal law so provides, at a competent administrative authority:

(a) of the place where the dangerous activity is or will be conducted; or

(b) of the place where the measures are to be taken.

Article 20
Notification

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

Article 21
Lis pendens

1. Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Parties, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

2. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

Article 22
Related actions

1. Where related actions are brought in the courts of different Parties, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

2. A court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

3. For the purposes of this article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

Article 23
Recognition and enforcement

1. Any decision given by a court with jurisdiction in accordance with Article 19 above where it is no longer subject to ordinary forms of review, shall be recognised in any Party, unless:

(a) such recognition is contrary to public policy in the Party in which recognition is sought;

(b) it was given in default of appearance and the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence;

(c) the decision is irreconcilable with a decision given in a dispute between the same parties in the Party in which recognition is sought; or

(d) the decision is irreconcilable with an earlier decision given in another State involving the same cause of action and between the same parties, provided that this latter decision fulfils the conditions necessary for its recognition in the Party addressed.

2. A decision recognised under paragraph 1 above which is enforceable in the Party of origin shall be enforceable in each Party as soon as the formalities required by that Party have been completed. The formalities shall not permit the merits of the case to be re-opened.

Article 24
Other treaties relating to jurisdiction, recognition and enforcement

Whenever two or more Parties are bound by a treaty establishing rules of jurisdiction or providing for recognition and enforcement in a Party of decisions given in another Party, the provisions of that treaty shall replace the corresponding provisions of Articles 19 to 23.

CHAPTER V
RELATION BETWEEN THIS CONVENTION AND OTHER PROVISIONS

Article 25
Relation between this Convention and other provisions

1. Nothing in this Convention shall be construed as limiting or derogating from any of the rights of the persons who have suffered the damage or as limiting the provisions concerning the protection or reinstatement of the environment which may be provided under the laws of any Party or under any other treaty to which it is a Party.

2. In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall therefore not apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.

CHAPTER VI
THE STANDING COMMITTEE

Article 26
The Standing Committee

1. For the purposes of this Convention, a Standing Committee is hereby set up.

2. Each Party may be represented on the Standing Committee by one or more delegates.

3. Each delegation shall have one vote. However, within the areas of its competence the European Economic Community shall exercise its right to vote in the Standing Committee with a number of votes equal to the number of its member States which are Parties to this Convention. It shall not exercise its right to vote in cases where the member States exercise theirs and conversely. As long as no member State of the European Economic Community is a Party, the Community as a Party shall have one vote.

4. Any State referred to in Article 32 or invited to accede to the Convention in accordance with the provisions of Article 33 which is not a Party to this Convention may be represented on the Standing Committee by an observer. If the European Economic Community is not a Party it may be represented on the Standing Committee by an observer.

5. Unless, at least one month before the meeting, a Party has informed the Secretary General of its objection, the Standing Committee may invite the following to attend as observers at all its meetings or one or part of a meeting:

(a) any State not referred to in paragraph 4 above;

(b) any international or national, governmental or non-governmental body technically qualified in the fields covered by this Convention.

6. The Standing Committee may seek the advice of experts in order to discharge its functions.

7. The Standing Committee shall be convened by the Secretary General of the Council of Europe. It shall meet whenever one-third of the Parties or the Committee of Ministers of the Council of Europe so request.

8. One-third of the Parties shall constitute a quorum for holding a meeting of the Standing Committee.

9. Decisions may only be taken in the Standing Committee if at least one-half of the Parties are present.

10. Subject to Articles 27 and 29 to 31 the decisions of the Standing Committee shall be taken by a majority of the members present.

11. Subject to the provisions of this Convention the Standing Committee shall draw up its own rules of procedure.

Article 27
Functions of the Standing Committee

1. The Standing Committee shall keep under review problems relating to this Convention. It may, in particular:

(a) consider any question of a general nature referred to it concerning interpretation or implementation of the Convention. The Standing Committee's conclusions concerning implementation of the Convention may take the form of a recommendation; recommendations shall be adopted by a three quarters majority of the votes cast;

(b) propose any necessary amendments to the Convention including its annexes and examine those proposed in accordance with Articles 29 to 31.

Article 28
Reports of the Standing Committee

After each meeting, the Standing Committee shall forward to the Parties and the Committee of Ministers of the Council of Europe a report on its discussions and any decisions taken.

CHAPTER VII
AMENDMENTS TO THE CONVENTION

Article 29
Amendments to the Articles

1. Any amendment to the articles of this Convention proposed by a Party or the Standing Committee shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to the European Economic Community, to any Signatory, to any Party, to any State invited to sign this Convention in accordance with the provisions of Article 32 and to any State invited to accede to it in accordance with the provisions of Article 33.

2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee which:

(a) for amendments to Articles 1 to 25 shall submit the text adopted by a three-quarters majority of the votes cast to the Parties for acceptance;

(b) for amendments to Articles 26 to 37 shall submit the text adopted by a three-quarters majority of the votes cast to the Committee of Ministers for approval. After its approval, this text shall be forwarded to the Parties for acceptance.

3. Any amendment to Articles 1 to 25 shall enter into force, in respect of those Parties which have accepted it, on the first day of the month following the expiration of a period of one month after the date on which three Parties, including at least two member States of the Council of Europe, have informed the Secretary General that they have accepted it.

4. In respect of any Party which subsequently accepts it, the amendment shall enter into force on the first day of the month following the expiration of a period of one month after the date on which that Party has informed the Secretary General of its acceptance.

5. Any amendment to Articles 26 to 37 shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Article 30
Amendments to the annexes

1. Any amendment to the annexes of this Convention proposed by a Party or the Standing Committee shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to the European Economic Community, to any Signatory, to any Party, to any State invited to sign this Convention in accordance with the provisions of Article 32 and to any State invited to accede to it in accordance with the provisions of Article 33.

2. Any amendment proposed in accordance with the provisions of the preceding paragraph or, where appropriate, of Article 31 shall be examined by the Standing Committee, which may adopt it by a three-quarters majority of the votes cast. The text adopted shall be forwarded to the Parties.

3. On the first day of the month following the expiration of a period of eighteen months after its adoption by the Standing Committee, unless more than one-third of the Parties have notified objections, any amendment shall enter into force for those Parties which have not notified objections.

Article 31
Tacit amendments to Annex I, Parts A and B

1. Whenever the European Economic Community adopts an amendment to one of the annexes to the directives referred to in Annex I, Parts A and B of this Convention, the Secretary General shall communicate it to all the Parties not later than four months after its publication in the Official Journal of the European Communities.

2. Within a time limit of six months after this communication, any Party may request that the amendment be submitted to the Standing Committee, in which case the procedure under Article 30, paragraphs 2 and 3, shall be followed. If no Party requests the submission of the amendment to the Standing Committee, the provisions of paragraph 3 below shall apply.

3. On the first day of the month following the expiration of a period of eighteen months after the communication of the amendment to all Parties, and unless more than one-third of the Parties have notified objections, the amendment shall enter into force for those Parties which have not notified objections.

4. However, the entry into force of the amendment shall be postponed to the date fixed for the member States of the European Economic Community for the compliance of their domestic law with the directive, if this date is later than that resulting from the time limit stated in the first part of this paragraph.

CHAPTER VIII
FINAL CLAUSES

Article 32
Signature, ratification and entry into force

1. This Convention shall be open for signature by the member States of the Council of Europe, the non-member States which have participated in its elaboration and by the European Economic Community.

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three States, including at least two member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 2 of the present article.

4. In respect of any Signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 33
Non-member States

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, on its own initiative or following a proposal from the Standing Committee and after consultation of the Parties, invite any non-member State of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20, sub-paragraph d of the Statute of the Council of Europe, and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 34
Territories

1. Any Signatory may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply. Any other State may formulate the same declaration when depositing its instrument of accession.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 35
Reservations

1. Any Signatory may declare, at the time of signature or when depositing its instrument of ratification, acceptance or approval, that it reserves the right:

(a) to apply Article 3, sub-paragraph a, to damage suffered in the territory of the States which are not Parties to this Convention only on the basis of reciprocity;

(b) to provide in its internal law that, without prejudice to Article 8, the operator shall not be liable if he proves that in the case of damage

caused by a dangerous activity mentioned under Article 2, paragraph 1, sub-paragraphs a and b, the state of scientific and technical knowledge at the time of the incident was not such as to enable the existence of the dangerous properties of the substance or the significant risk involved in the operation dealing with the organism to be discovered;

(c) not to apply Article 18.

2. Any other State may formulate the same reservations when depositing its instrument of accession.

3. Any Signatory or any other State which makes use of a reservation shall notify the Secretary General of the Council of Europe of the relevant contents of its internal law.

4. Any Party which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 34, paragraph 2, may, in respect of the territory concerned, make a reservation in accordance with the provisions of the preceding paragraphs.

5. No reservation shall be made to the provisions of this Convention, except those mentioned in this article.

6. Any Party which has made one of the reservations mentioned in this article may withdraw it by means of a declaration addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of one month after the date of its receipt by the Secretary General.

Article 36
Denunciation

1. Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notification by the Secretary General.

Article 37
Notifications

1. The Secretary General of the Council of Europe shall notify the member States of the Council, any Signatory, any Party and any other State which has been invited to accede to this Convention of:

(a) any signature;

(b) the deposit of any instrument of ratification, acceptance, approval or accession;

(c) any date of entry into force of this Convention in accordance with Articles 32 or 33;

(d) any amendment adopted in accordance with Articles 29, 30 or 31, and the date on which such an amendment enters into force;

(e) any declaration made under the provisions of Articles 18 or 34;

(f) any reservation and withdrawal of reservation made in pursuance of the provisions of Article 35;

(g) any other act, notification or communication relating to this Convention.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.
DONE at Lugano, this 21st day of June 1993, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Economic Community and to any State invited to accede to this Convention.

ANNEX I

Dangerous substances

A Criteria and methods to be applied to catagories of dangerous substances
(Article 2, paragraph 2, sub-paragraph a)

The properties referred to in Article 2, paragraph 2, sub-paragraph a, shall be determined by the criteria and methods referred to in or annexed to:

– the Council Directive of the European Communities 67/548/EEC of 27 June 1967 (OJEC No. L196/1) on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances
. as amended, for the seventh time, in the Council Directive of the European Communities 92/32/EEC of 30 April 1992 (OJEC No. L154/1), and

. as adapted to technical progress, for the sixteenth time, by Commission Directive of the European Communities 92/37/EEC of 30 April 1992 (OJEC No. L154/30),

– the Council Directive of the European Communities 88/379/EEC of 7 June 1988

(OJEC No. L187/14) on the approximation of the laws, regulations and administrative provisions of the member States relating to the classification, packaging and labelling of dangerous preparations as adapted to technical progress by the Directive of the Commission of the European Communities 90/492/EEC of 5 October 1990 (OJEC No. L275/35).

B List of dangerous substances

(Article 2, paragraph 2, sub-paragraph b)

The substances referred to in Article 2, paragraph 2, sub-paragraph b, shall be those listed in Annex I of the Council Directive of the European Communities 67/548/EEC of 27 June 1967 (OJEC No. 196/1), on the approximation of the laws regulations and administrative provisions relating to the classification packaging and labelling of dangerous substances as adapted to technical progress, for the sixteenth time, by Commission Directive of the European Communities 92/37/EEC of 30 April 1992 (OJEC No. L154/30).

ANNEX II

Installations or sites for the incineration, treatment, handling or recycling of waste

(See Article 2, paragraph 1, sub-paragraph c)

1 Installations or sites for the partial or complete disposal of solid, liquid or gaseous wastes by incineration on land or at sea.

2 Installations or sites for thermal degradation of solid, gaseous or liquid wastes under reduced oxygen supply.

3 Installations or sites for high temperature degradation or thermal degasification of solid, gaseous or liquid wastes.

4 Installations or sites for thermal recovery of compounds from solid or liquid wastes.

5 Installations or sites for chemical, physical or biological treatment of wastes for recycling or disposal.

6 Installations or sites for blending or mix prior to submission to the operation of a site for permanent deposit.

7 Installations or sites for repacking prior to submission to the operation of a site for permanent deposit.

8 Installations or sites for handling and treatment of solid, liquid or gaseous wastes for re-use or recycling such as:

- solvent reclamation/regeneration;
- recycling/reclamation of organic substances (not used as solvents) and inorganic materials;
- regeneration of acid and bases;
- recovery of components used for pollution abatement;
- recovery of components from catalysts;
- waste oil re-refining or other re-uses of waste oil;
- recovery of components from discarded cars.

9 Installations or sites for storage of materials intended for submission to any operation in this annex or to the operation of a site for the permanent deposit of waste, temporary storage excluded, pending collection, on the site where it is produced.

36.ENERGY CHARTER TREATY

PREAMBLE

The Contracting Parties to this Treaty,

Having regard to the Charter of Paris for a New Europe signed on 21 November 1990;

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991;

Recalling that all signatories to the Concluding Document of the Hague Conference undertook to pursue the objectives and principles of the European Energy Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith an Energy Charter Treaty and Protocols, and desiring to place the commitments contained in that Charter on a secure and binding international legal basis;

Desiring also to establish the structural framework required to implement the principles enunciated in the European Energy Charter;

Wishing to implement the basic concept of the European Energy Charter initiative which is to catalyse economic growth by means of measures to liberalize investment and trade in energy;

Affirming that Contracting Parties attach the utmost importance to the effective implementation of full national treatment and most favoured nation treatment, and that these commitments will be applied to the Making of Investments pursuant to a supplementary treaty;

Having regard to the objective of progressive liberalization of international trade and to the principle of avoidance of discrimination in international trade as enunciated in the General Agreement on Tariffs and Trade and its Related Instruments and as otherwise provided for in this Treaty;

Determined progressively to remove technical, administrative and other barriers to trade in Energy Materials and Products and related equipment, technologies and services;

Looking to the eventual membership in the General Agreement on Tariffs and Trade of those Contracting Parties which are not currently parties thereto and concerned to provide interim trade arrangements which will assist those Contracting Parties and not impede their preparation for such membership;

Mindful of the rights and obligations of certain Contracting Parties which are also parties to the General Agreement on Tariffs and Trade and its Related Instruments;

Having regard to competition rules concerning mergers, monopolies, anti-competitive practices and abuse of dominant position;

Having regard also to the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines and other international nuclear non-proliferation obligations or understandings;

Recognizing the necessity for the most efficient exploration, production, conversion, storage, transport, distribution and use of energy;

Recalling the United Nations Framework Convention on Climate Change, the Convention on Long-Range Transboundary Air Pollution and its protocols, and other international environmental agreements with energy-related aspects; and

Recognizing the increasingly urgent need for measures to protect the environment, including the decommissioning of energy installations and waste disposal, and for internationally-agreed objectives and criteria for these purposes,

HAVE AGREED AS FOLLOWS:

PART I
DEFINITIONS AND PURPOSE

Article 1
Definitions

As used in this Treaty:

1. "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Document is considered to be signature of the Charter.

2. "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Treaty and for which the Treaty is in force.

3. "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Treaty, including the authority to take decisions binding on them in respect of those matters.

4. "Energy Materials and Products", based on the Harmonized System of the Customs Co-operation

Council and the Combined Nomenclature of the European Communities, means the items included in Annex EM.

5. "Economic Activity in the Energy Sector" means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sale of Energy Materials and Products except those included in Annex NI, or concerning the distribution of heat to multiple premises.

6. "Investment" means every kind of asset, owned or controlled directly or indirectly by an Investor and includes:

(a) tangible and intangible, and movable and immovable, property, and any property rights such as leases, mortgages, liens, and pledges;

(b) a company or business enterprise, or shares, stock, or other forms of equity participation in a company or business enterprise, and bonds and other debt of a company or business enterprise;

(c) claims to money and claims to performance pursuant to contract having an economic value and associated with an Investment;

(d) Intellectual Property;

(e) Returns;

(f) any right conferred by law or contract or by virtue of any licences and permits granted pursuant to law to undertake any Economic Activity in the Energy Sector.

A change in the form in which assets are invested does not affect their character as investments and the term "Investment" includes all investments, whether existing at or made after the later of the date of entry into force of this Treaty for the Contracting Party of the Investor making the investment and that for the Contracting Party in the Area of which the investment is made (hereinafter referred to as the "Effective Date") provided that the Treaty shall only apply to matters affecting such investments after the Effective Date. "Investment" refers to any investment associated with an Economic Activity in the Energy Sector and to investments or classes of investments designated by a Contracting Party in its Area as "Charter efficiency projects" and so notified to the Secretariat.

7. "Investor" means:

(a) with respect to a Contracting Party:
  (i) a natural person having the citizenship or nationality of or who is permanently residing in that Contracting Party in accordance with its applicable law;
  (ii) a company or other organization organized in accordance with the law applicable in that Contracting Party;

(b) with respect to a "third state", a natural person, company or other organization which fulfils, mutatis mutandis, the conditions specified in subparagraph (a) for a Contracting Party.

8. "Make Investments" or "Making of Investments" means establishing new Investments, acquiring all or part of existing Investments or moving into different fields of Investment activity.

9. "Returns" means the amounts derived from or associated with an Investment, irrespective of the form in which they are paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees and payments in kind.

10. "Area" means with respect to a state that is a Contracting Party:

(a) the territory under its sovereignty, it being understood that territory includes land, internal waters and the territorial sea; and

(b) subject to and in accordance with the international law of the sea: the sea, sea-bed and its subsoil with regard to which that Contracting Party exercises sovereign rights and jurisdiction.

With respect to a Regional Economic Integration Organization which is a Contracting Party, Area means the Areas of the member states of such Organization, under the provisions contained in the agreement establishing that Organization.

11(a) GATT" means "GATT 1947" or "GATT 1994", or both of them where both are applicable.

(b) "GATT 1947" means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

(c) "GATT 1994" means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.

(d) A party to the Agreement Establishing the World Trade Organization is considered to be a party to GATT 1994.

(e) "Related Instruments" means, as appropriate:
  (i) agreements, arrangements or other legal instruments, including decisions,

declarations and understandings, concluded under the auspices of GATT 1947 as subsequently rectified, amended or modified; or

(ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended or modified.

12. "Intellectual Property" includes copyrights and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

13.(a)"Energy Charter Protocol" or "Protocol" means a treaty, the negotiation of which is authorized and the text of which is adopted by the Charter Conference, which is entered into by two or more Contracting Parties in order to complement, supplement, extend or amplify the provisions of this Treaty with respect to any specific sector or category of activity within the scope of this Treaty, or to areas of co-operation pursuant to Title III of the Charter.

(b) "Energy Charter Declaration" or "Declaration" means a non-binding instrument, the negotiation of which is authorized and the text of which is approved by the Charter Conference, which is entered into by two or more Contracting Parties to complement or supplement the provisions of this Treaty.

14. "Freely Convertible Currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions.

Article 2
Purpose of the Treaty

This Treaty establishes a legal framework in order to promote long-term co-operation in the energy field, based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter.

PART II
COMMERCE

Article 3
International Markets

The Contracting Parties shall work to promote access to international markets on commercial terms, and generally to develop an open and competitive market, for Energy Materials and Products.

Article 4
Non-Derogation from GATT and Related Instruments

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied between those Contracting Parties.

Article 5
Trade-Related Investment Measures

1. A Contracting Party shall not apply any trade-related investment measure that is inconsistent with the provisions of article III or XI of the GATT; this shall be without prejudice to the Contracting Party's rights and obligations under the GATT and Related Instruments and Article 29.

2. Such measures include any investment measure which is mandatory or enforceable under domestic law or under any administrative ruling, or compliance with which is necessary to obtain an advantage, and which requires:

(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or

(b) that an enterprise's purchase or use of imported products be limited to an amount related to the volume or value of local products that it exports;

c) or which restricts;

(d) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;

(e) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or

(f) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

3. Nothing in paragraph (1) shall be construed to prevent a Contracting Party from applying the trade-related investment measures described in subparagraphs (2)(a) and (c) as a condition of eligibility for export promotion, foreign aid, government procurement or preferential tariff or quota programmes.

4. Notwithstanding paragraph (1), a Contracting Party may temporarily continue to maintain trade-related investment measures which were in effect more than 180 days before its signature of this Treaty, subject to the notification and phase-out provisions set out in Annex TRM.

Article 6
Competition

1. Each Contracting Party shall work to alleviate market distortions and barriers to competition in Economic Activity in the Energy Sector.

2. Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector.

3. Contracting Parties with experience in applying competition rules shall give full consideration to providing, upon request and within available resources, technical assistance on the development and implementation of competition rules to other Contracting Parties.

4. Contracting Parties may co-operate in the enforcement of their competition rules by consulting and exchanging information.

5. If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti-competitive conduct that is the subject of the notification and shall include an offer of such further information and co-operation as the notifying Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcement action with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development.

6. Nothing in this Article shall require the provision of information by a Contracting Party contrary to its laws regarding disclosure of information, confidentiality or business secrecy.

7. The procedures set forth in paragraph (5) and Article 27(1) shall be the exclusive means within this Treaty of resolving any disputes that may arise over the implementation or interpretation of this Article.

Article 7
Transit

1. Each Contracting Party shall take the necessary measures to facilitate the Transit of Energy Materials and Products consistent with the principle of freedom of transit and without distinction as to the origin, destination or ownership of such Energy Materials and Products or discrimination as to pricing on the basis of such distinctions, and without imposing any unreasonable delays, restrictions or charges.

2. Contracting Parties shall encourage relevant entities to co-operate in:

(a) modernising Energy Transport Facilities necessary to the Transit of Energy Materials and Products;

(b) the development and operation of Energy Transport Facilities serving the Areas of more than one Contracting Party;

(c) measures to mitigate the effects of interruptions in the supply of Energy Materials and Products;

(d) facilitating the interconnection of Energy Transport Facilities.

3. Each Contracting Party undertakes that its provisions relating to transport of Energy Materials and Products and the use of Energy Transport Facilities shall treat Energy Materials and Products in Transit in no less favourable a manner than its provisions treat such materials and products originating in or destined for its own Area, unless an existing international agreement provides otherwise.

4. In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1).

5. A Contracting Party through whose Area Energy Materials and Products may transit shall not be obliged to:

(a) permit the construction or modification of Energy Transport Facilities; or

(b) permit new or additional Transit through existing Energy Transport Facilities, which it demonstrates to the other Contracting Parties concerned would endanger the security or efficiency of its energy systems, including the security of supply.
Contracting Parties shall, subject to paragraphs (6) and (7), secure established flows of Energy Materials and Products to, from or between the Areas of other Contracting Parties.

6. A Contracting Party through whose Area Energy Materials and Products transit shall not, in the event of a dispute over any matter arising from that Transit, interrupt or reduce, permit any entity subject to its control to interrupt or reduce, or require any entity subject to its jurisdiction to interrupt or reduce the existing flow of Energy Materials and Products prior to the conclusion of the dispute resolution procedures set out in paragraph (7), except where this is specifically provided for in a contract or other agreement governing such Transit or permitted in accordance with the conciliator's decision.

7. The following provisions shall apply to a dispute described in paragraph (6), but only following the exhaustion of all relevant contractual or other dispute resolution remedies previously agreed between the Contracting Parties party to the dispute or between any entity referred to in paragraph (6) and an entity of another Contracting Party party to the dispute:

(a) A Contracting Party party to the dispute may refer it to the Secretary-General by a notification summarizing the matters in dispute. The Secretary-General shall notify all Contracting Parties of any such referral.

(b) Within 30 days of receipt of such a notification, the Secretary-General, in consultation with the parties to the dispute and the other Contracting Parties concerned, shall appoint a conciliator. Such a conciliator shall have experience in the matters subject to dispute and shall not be a national or citizen of or permanently resident in a party to the dispute or one of the other Contracting Parties concerned.

(c) The conciliator shall seek the agreement of the parties to the dispute to a resolution thereof or upon a procedure to achieve such resolution. If within 90 days of his appointment he has failed to secure such agreement, he shall recommend a resolution to the dispute or a procedure to achieve such resolution and shall decide the interim tariffs and other terms and conditions to be observed for Transit from a date which he shall specify until the dispute is resolved.

(d) The Contracting Parties undertake to observe and ensure that the entities under their control or jurisdiction observe any interim decision under subparagraph (c) on tariffs, terms and conditions for 12 months following the conciliator's decision or until resolution of the dispute, whichever is earlier.

(e) Notwithstanding subparagraph (b) the Secretary-General may elect not to appoint a conciliator if in his judgement the dispute concerns Transit that is or has been the subject of the dispute resolution procedures set out in subparagraphs (a) to (d) and those proceedings have not resulted in a resolution of the dispute.

(f) The Charter Conference shall adopt standard provisions concerning the conduct of conciliation and the compensation of conciliators.

8. Nothing in this Article shall derogate from a Contracting Party's rights and obligations under international law including customary international law, existing bilateral or multilateral agreements, including rules concerning submarine cables and pipelines.

9. This Article shall not be so interpreted as to oblige any Contracting Party which does not have a certain type of Energy Transport Facilities used for Transit to take any measure under this Article with respect to that type of Energy Transport Facilities. Such a Contracting Party is, however, obliged to comply with paragraph (4).

10. For the purposes of this Article:

(a) "Transit" means

(i) the carriage through the Area of a Contracting Party, or to or from port facilities in its Area for loading or unloading, of Energy Materials and Products originating in the Area of another state and destined for the Area of a third state, so long as either the other state or the third state is a Contracting Party; or

(ii) the carriage through the Area of a Contracting Party of Energy Materials and Products originating in the Area of another Contracting Party and destined for the Area of that other Contracting Party, unless the two Contracting Parties concerned decide otherwise and record their decision by a joint entry in Annex N. The two Contracting Parties may delete their listing in Annex N by delivering a joint written notification of their intentions to the Secretariat, which shall transmit that notification to all other Contracting Parties. The deletion shall take effect four weeks after such former notification.

(b) "Energy Transport Facilities" consist of high-pressure gas transmission pipelines, high-voltage electricity transmission grids and lines, crude oil transmission pipelines, coal slurry pipelines, oil

product pipelines, and other fixed facilities specifically for handling Energy Materials and Products.

Article 8
Transfer of Technology

1. The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.

2. Accordingly, to the extent necessary to give effect to paragraph (1) the Contracting Parties shall eliminate existing and create no new obstacles to the transfer of technology in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

Article 9
Access to Capital

1. The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable.

2. A Contracting Party may adopt and maintain programmes providing for access to public loans, grants, guarantees or insurance for facilitating trade or Investment abroad. It shall make such facilities available, consistent with the objectives, constraints and criteria of such programmes (including any objectives, constraints or criteria relating to the place of business of an applicant for any such facility or the place of delivery of goods or services supplied with the support of any such facility) for Investments in the Economic Activity in the Energy Sector of other Contracting Parties or for financing trade in Energy Materials and Products with other Contracting Parties.

3. Contracting Parties shall, in implementing programmes in Economic Activity in the Energy Sector to improve the economic stability and investment climates of the Contracting Parties, seek as appropriate to encourage the operations and take advantage of the expertise of relevant international financial institutions.

4. Nothing in this Article shall prevent:
(a) financial institutions from applying their own lending or underwriting practices based on market principles and prudential considerations; or

(b) a Contracting Party from taking measures:
   (i) for prudential reasons, including the protection of Investors, consumers, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or
   (ii) to ensure the integrity and stability of its financial system and capital markets.

PART III
INVESTMENT PROMOTION AND PROTECTION

Article 10
Promotion, Protection and Treatment of Investments

1. Each Contracting Party shall, in accordance with the provisions of this Treaty, encourage and create stable, equitable, favourable and transparent conditions for Investors of other Contracting Parties to make Investments in its Area. Such conditions shall include a commitment to accord at all times to Investments of Investors of other Contracting Parties fair and equitable treatment. Such Investments shall also enjoy the most constant protection and security and no Contracting Party shall in any way impair by unreasonable or discriminatory measures their management, maintenance, use, enjoyment or disposal. In no case shall such Investments be accorded treatment less favourable than that required by international law, including treaty obligations. Each Contracting Party shall observe any obligations it has entered into with an Investor or an Investment of an Investor of any other Contracting Party.

2. Each Contracting Party shall endeavour to accord to Investors of other Contracting Parties, as regards the Making of Investments in its Area, the Treatment described in paragraph (3).

3. For the purposes of this Article, "Treatment" means treatment accorded by a Contracting Party which is no less favourable than that which it accords to its own Investors or to Investors of any other Contracting Party or any third state, whichever is the most favourable.

4. A supplementary treaty shall, subject to conditions to be laid down therein, oblige each party thereto to accord to Investors of other parties, as regards

the Making of Investments in its Area, the Treatment described in paragraph (3). That treaty shall be open for signature by the states and Regional Economic Integration Organizations which have signed or acceded to this Treaty. Negotiations towards the supplementary treaty shall commence not later than 1 January 1995, with a view to concluding it by 1 January 1998.

5. Each Contracting Party shall, as regards the Making of Investments in its Area, endeavour to:

(a) limit to the minimum the exceptions to the Treatment described in paragraph (3);

(b) progressively remove existing restrictions affecting Investors of other Contracting Parties.

6.(a) A Contracting Party may, as regards the Making of Investments in its Area, at any time declare voluntarily to the Charter Conference, through the Secretariat, its intention not to introduce new exceptions to the Treatment described in paragraph (3);

(b) A Contracting Party may, furthermore, at any time make a voluntary commitment to accord to Investors of other Contracting Parties, as regards the Making of Investments in some or all Economic Activities in the Energy Sector in its Area, the Treatment described in paragraph (3). Such commitments shall be notified to the Secretariat and listed in Annex VC and shall be binding under this Treaty.

7. Each Contracting Party shall accord to Investments in its Area of Investors of other Contracting Parties, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable.

8. The modalities of application of paragraph (7) in relation to programmes under which a Contracting Party provides grants or other financial assistance, or enters into contracts, for energy technology research and development, shall be reserved for the supplementary treaty described in paragraph (4). Each Contracting Party shall through the Secretariat keep the Charter Conference informed of the modalities it applies to the programmes described in this paragraph.

9. Each state or Regional Economic Integration Organization which signs or accedes to this Treaty shall, on the date it signs the Treaty or deposits its instrument of accession, submit to the Secretariat a report summarizing all laws, regulations or other measures relevant to:

(a) exceptions to paragraph (2); or

(b) the programmes referred to in paragraph (8).

A Contracting Party shall keep its report up to date by promptly submitting amendments to the Secretariat. The Charter Conference shall review these reports periodically. In respect of subparagraph (a) the report may designate parts of the energy sector in which a Contracting Party accords to Investors of other Contracting Parties the Treatment described in paragraph (3). In respect of subparagraph (b) the review by the Charter Conference may consider the effects of such programmes on competition and Investments.

10. Notwithstanding any other provision of this Article, the treatment described in paragraphs (3) and (7) shall not apply to the protection of Intellectual Property; instead, the treatment shall be as specified in the corresponding provisions of the applicable international agreements for the protection of Intellectual Property rights to which the respective Contracting Parties are parties.

11. For the purposes of Article 26, the application by a Contracting Party of a trade-related investment measure as described in Article 5(1) and (2) to an Investment of an Investor of another Contracting Party existing at the time of such application shall, subject to Article 5(3) and (4), be considered a breach of an obligation of the former Contracting Party under this Part.

12. Each Contracting Party shall ensure that its domestic law provides effective means for the assertion of claims and the enforcement of rights with respect to Investments, investment agreements, and investment authorizations.

Article 11
Key Personnel

1. A Contracting Party shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine in good faith requests by Investors of another Contracting Party, and key personnel who are employed by such Investors or by Investments of such Investors, to enter and remain temporarily in its Area to engage in activities connected with the making or the development, management, maintenance, use, enjoyment or disposal of relevant Investments, including the provision of advice or key technical services.

2. A Contracting Party shall permit Investors of another Contracting Party which have Investments in its Area, and Investments of such Investors, to employ any key person of the Investor's or the Investment's choice regardless of nationality and citizenship provided that such key person has been permitted to enter, stay and work in the Area of

the former Contracting Party and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key person.

Article 12
Compensation for Losses

1. Except where Article 13 applies, an Investor of any Contracting Party which suffers a loss with respect to any Investment in the Area of another Contracting Party owing to war or other armed conflict, state of national emergency, civil disturbance, or other similar event in that Area, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other settlement, treatment which is the most favourable of that which that Contracting Party accords to any other Investor, whether its own Investor, the Investor of any other Contracting Party, or the Investor of any third state.

2. Without prejudice to paragraph (1), an Investor of a Contracting Party which, in any of the situations referred to in that paragraph, suffers a loss in the Area of another Contracting Party resulting from

(a) requisitioning of its Investment or part thereof by the latter's forces or authorities; or

(b) destruction of its Investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation, shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective.

Article 13
Expropriation

1. Investments of Investors of a Contracting Party in the Area of any other Contracting Party shall not be nationalized, expropriated or subjected to a measure or measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "Expropriation") except where such Expropriation is:

(a) for a purpose which is in the public interest;

(b) not discriminatory;

(c) carried out under due process of law; and

(d) accompanied by the payment of prompt, adequate and effective compensation.

Such compensation shall amount to the fair market value of the Investment expropriated at the time immediately before the Expropriation or impending Expropriation became known in such a way as to affect the value of the Investment (hereinafter referred to as the "Valuation Date"). Such fair market value shall at the request of the Investor be expressed in a Freely Convertible Currency on the basis of the market rate of exchange existing for that currency on the Valuation Date. Compensation shall also include interest at a commercial rate established on a market basis from the date of Expropriation until the date of payment.

2. The Investor affected shall have a right to prompt review, under the law of the Contracting Party making the Expropriation, by a judicial or other competent and independent authority of that Contracting Party, of its case, of the valuation of its Investment, and of the payment of compensation, in accordance with the principles set out in paragraph (1).

3. For the avoidance of doubt, Expropriation shall include situations where a Contracting Party expropriates the assets of a company or enterprise in its Area in which an Investor of any other Contracting Party has an Investment, including through the ownership of shares.

Article 14
Transfers Related to Investments

1. Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

(a) the initial capital plus any additional capital for the maintenance and development of an Investment;

(b) Returns;

(c) payments under a contract, including amortization of principal and accrued interest payments pursuant to a loan agreement;

(d) unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;

(e) proceeds from the sale or liquidation of all or any part of an Investment;

(f) payments arising out of the settlement of a dispute;

(g) payments of compensation pursuant to Articles 12 and 13.

2. Transfers under paragraph (1) shall be effected without delay and (except in case of a Return in kind) in a Freely Convertible Currency.

3. Transfers shall be made at the market rate of exchange existing on the date of transfer with respect to spot transactions in the currency to be transferred. In the absence of a market for foreign exchange, the rate to be used will be the most recent rate applied to inward investments or the most recent exchange rate for conversion of

currencies into Special Drawing Rights, whichever is more favourable to the Investor.

4. Notwithstanding paragraphs (1) to (3), a Contracting Party may protect the rights of creditors, or ensure compliance with laws on the issuing, trading and dealing in securities and the satisfaction of judgements in civil, administrative and criminal adjudicatory proceedings, through the equitable, non-discriminatory, and good faith application of its laws and regulations.

5. Notwithstanding paragraph (2), Contracting Parties which are states that were constituent parts of the former Union of Soviet Socialist Republics may provide in agreements concluded between them that transfers of payments shall be made in the currencies of such Contracting Parties, provided that such agreements do not treat Investments in their Areas of Investors of other Contracting Parties less favourably than either Investments of Investors of the Contracting Parties which have entered into such agreements or Investments of Investors of any third state.

6. Notwithstanding subparagraph (1)(b), a Contracting Party may restrict the transfer of a Return in kind in circumstances where the Contracting Party is permitted under Article 29(2)(a) or the GATT and Related Instruments to restrict or prohibit the exportation or the sale for export of the product constituting the Return in kind; provided that a Contracting Party shall permit transfers of Returns in kind to be effected as authorized or specified in an investment agreement, investment authorization, or other written agreement between the Contracting Party and either an Investor of another Contracting Party or its Investment.

Article 15
Subrogation

1. If a Contracting Party or its designated agency (hereinafter referred to as the "Indemnifying Party") makes a payment under an indemnity or guarantee given in respect of an Investment of an Investor (hereinafter referred to as the "Party Indemnified") in the Area of another Contracting Party (hereinafter referred to as the "Host Party"), the Host Party shall recognize:

(a) the assignment to the Indemnifying Party of all the rights and claims in respect of such Investment; and

(b) the right of the Indemnifying Party to exercise all such rights and enforce such claims by virtue of subrogation.

2. The Indemnifying Party shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph (1); and

(b) the same payments due pursuant to those rights and claims, as the Party Indemnified was entitled to receive by virtue of this Treaty in respect of the Investment concerned.

3. In any proceeding under Article 26, a Contracting Party shall not assert as a defence, counterclaim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an insurance or guarantee contract.

Article 16
Relation to Other Agreements

Where two or more Contracting Parties have entered into a prior international agreement, or enter into a subsequent international agreement, whose terms in either case concern the subject matter of Part III or V of this Treaty,

1. nothing in Part III or V of this Treaty shall be construed to derogate from any provision of such terms of the other agreement or from any right to dispute resolution with respect thereto under that agreement; and

2. nothing in such terms of the other agreement shall be construed to derogate from any provision of Part III or V of this Treaty or from any right to dispute resolution with respect thereto under this Treaty, where any such provision is more favourable to the Investor or Investment.

Article 17
Non-Application of Part III in Certain Circumstances

Each Contracting Party reserves the right to deny the advantages of this Part to:

1. a legal entity if citizens or nationals of a third state own or control such entity and if that entity has no substantial business activities in the Area of the Contracting Party in which it is organized; or

2. an Investment, if the denying Contracting Party establishes that such Investment is an Investment of an Investor of a third state with or as to which the denying Contracting Party:

(a) does not maintain a diplomatic relationship; or

(b) adopts or maintains measures that:
   (i) prohibit transactions with Investors of that state; or
   (ii) would be violated or circumvented if the benefits of this Part were accorded to Investors of that state or to their Investments.

PART IV
MISCELLANEOUS PROVISIONS

Article 18
Sovereignty over Energy Resources

1. The Contracting Parties recognize state sovereignty and sovereign rights over energy resources. They reaffirm that these must be exercised in accordance with and subject to the rules of international law.

2. Without affecting the objectives of promoting access to energy resources, and exploration and development thereof on a commercial basis, the Treaty shall in no way prejudice the rules in Contracting Parties governing the system of property ownership of energy resources.

3. Each state continues to hold in particular the rights to decide the geographical areas within its Area to be made available for exploration and development of its energy resources, the optimalization of their recovery and the rate at which they may be depleted or otherwise exploited, to specify and enjoy any taxes, royalties or other financial payments payable by virtue of such exploration and exploitation, and to regulate the environmental and safety aspects of such exploration, development and reclamation within its Area, and to participate in such exploration and exploitation, inter alia, through direct participation by the government or through state enterprises.

4. The Contracting Parties undertake to facilitate access to energy resources, inter alia, by allocating in a non-discriminatory manner on the basis of published criteria authorizations, licences, concessions and contracts to prospect and explore for or to exploit or extract energy resources.

Article 19
Environmental Aspects

1. In pursuit of sustainable development and taking into account its obligations under those international agreements concerning the environment to which it is party, each Contracting Party shall strive to minimize in an economically efficient manner harmful Environmental Impacts occurring either within or outside its Area from all operations within the Energy Cycle in its Area, taking proper account of safety. In doing so each Contracting Party shall act in a Cost-Effective manner. In its policies and actions each Contracting Party shall strive to take precautionary measures to prevent or minimize environmental degradation. The Contracting Parties agree that the polluter in the Areas of Contracting Parties, should, in principle, bear the cost of pollution, including transboundary pollution, with due regard to the public interest and without distorting Investment in the Energy Cycle or international trade. Contracting Parties shall accordingly:

   (a) take account of environmental considerations throughout the formulation and implementation of their energy policies;

   (b) promote market-oriented price formation and a fuller reflection of environmental costs and benefits throughout the Energy Cycle;

   (c) having regard to Article 34(4), encourage co-operation in the attainment of the environmental objectives of the Charter and co-operation in the field of international environmental standards for the Energy Cycle, taking into account differences in adverse effects and abatement costs between Contracting Parties;

   (d) have particular regard to Improving Energy Efficiency, to developing and using renewable energy sources, to promoting the use of cleaner fuels and to employing technologies and technological means that reduce pollution;

   (e) promote the collection and sharing among Contracting Parties of information on environmentally sound and economically efficient energy policies and Cost-Effective practices and technologies;

   (f) promote public awareness of the Environmental Impacts of energy systems, of the scope for the prevention or abatement of their adverse Environmental Impacts, and of the costs associated with various prevention or abatement measures;

   (g) promote and co-operate in the research, development and application of energy efficient and environmentally sound technologies, practices and processes which will minimize harmful Environmental Impacts of all aspects of the Energy Cycle in an economically efficient manner;

   (h) encourage favourable conditions for the transfer and dissemination of such technologies consistent with the adequate and effective protection of Intellectual Property rights;

   (i) promote the transparent assessment at an early stage and prior to decision, and subsequent monitoring, of Environmental Impacts of environmentally significant energy investment projects;

   (j) promote international awareness and information exchange on Contracting Parties' relevant environmental programmes and standards and on the implementation of those programmes and standards;

(k) participate, upon request, and within their available resources, in the development and implementation of appropriate environmental programmes in the Contracting Parties.

2. At the request of one or more Contracting Parties, disputes concerning the application or interpretation of provisions of this Article shall, to the extent that arrangements for the consideration of such disputes do not exist in other appropriate international fora, be reviewed by the Charter Conference aiming at a solution.

3. For the purposes of this Article:

(a) "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts;

(b) "Environmental Impact" means any effect caused by a given activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(c) "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output;

(d) "Cost-Effective" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

Article 20
Transparency

1. Laws, regulations, judicial decisions and administrative rulings of general application which affect trade in Energy Materials and Products are, in accordance with Article 29(2)(a), among the measures subject to the transparency disciplines of the GATT and relevant Related Instruments.

2. Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Contracting Party, and agreements in force between Contracting Parties, which affect other matters covered by this Treaty shall also be published promptly in such a manner as to enable Contracting Parties and Investors to become acquainted with them. The provisions of this paragraph shall not require any Contracting Party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any Investor.

3. Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request.

Article 21
Taxation

1. Except as otherwise provided in this Article, nothing in this Treaty shall create rights or impose obligations with respect to Taxation Measures of the Contracting Parties. In the event of any inconsistency between this Article and any other provision of the Treaty, this Article shall prevail to the extent of the inconsistency.

2. Article 7(3) shall apply to Taxation Measures other than those on income or on capital, except that such provision shall not apply to:

(a) an advantage accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii); or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure of a Contracting Party arbitrarily discriminates against Energy Materials and Products originating in, or destined for the Area of another Contracting Party or arbitrarily restricts benefits accorded under Article 7(3).

3. Article 10(2) and (7) shall apply to Taxation Measures of the Contracting Parties other than those on income or on capital, except that such provisions shall not apply to:

(a) impose most favoured nation obligations with respect to advantages accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii) or resulting from membership of any Regional Economic Integration Organization; or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure arbitrarily discriminates against an Investor of another Contracting Party or arbitrarily restricts benefits accorded under the Investment provisions of this Treaty.

4. Article 29(2) to (6) shall apply to Taxation Measures other than those on income or on capital.

5.(a) Article 13 shall apply to taxes.

(b) Whenever an issue arises under Article 13, to the extent it pertains to whether a tax constitutes an expropriation or whether a tax alleged to constitute an expropriation is discriminatory, the following provisions shall apply:
   (i) The Investor or the Contracting Party alleging expropriation shall refer the issue of whether the tax is an expropriation or whether the tax is discriminatory to the relevant Competent Tax Authority. Failing such referral by the Investor or the Contracting Party, bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) shall make a referral to the relevant Competent Tax Authorities;
   (ii) The Competent Tax Authorities shall, within a period of six months of such referral, strive to resolve the issues so referred. Where non-discrimination issues are concerned, the Competent Tax Authorities shall apply the non-discrimination provisions of the relevant tax convention or, if there is no non-discrimination provision in the relevant tax convention applicable to the tax or no such tax convention is in force between the Contracting Parties concerned, they shall apply the non-discrimination principles under the Model Tax Convention on Income and Capital of the Organisation for Economic Co-operation and Development;
   (iii) Bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) may take into account any conclusions arrived at by the Competent Tax Authorities regarding whether the tax is an expropriation. Such bodies shall take into account any conclusions arrived at within the six-month period prescribed in subparagraph (b)(ii) by the Competent Tax Authorities regarding whether the tax is discriminatory. Such bodies may also take into account any conclusions arrived at by the Competent Tax Authorities after the expiry of the six-month period;
   (iv) Under no circumstances shall involvement of the Competent Tax Authorities, beyond the end of the six-month period referred to in subparagraph (b)(ii), lead to a delay of proceedings under Articles 26 and 27.

6. For the avoidance of doubt, Article 14 shall not limit the right of a Contracting Party to impose or collect a tax by withholding or other means.

7. For the purposes of this Article:
(a) The term "Taxation Measure" includes:
   (i) any provision relating to taxes of the domestic law of the Contracting Party or of a political subdivision thereof or a local authority therein; and
   (ii) any provision relating to taxes of any convention for the avoidance of double taxation or of any other international agreement or arrangement by which the Contracting Party is bound.

(b) There shall be regarded as taxes on income or on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, or substantially similar taxes, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(c) A "Competent Tax Authority" means the competent authority pursuant to a double taxation agreement in force between the Contracting Parties or, when no such agreement is in force, the minister or ministry responsible for taxes or their authorized representatives.

(d) For the avoidance of doubt, the terms "tax provisions" and "taxes" do not include customs duties.

Article 22
State and Privileged Enterprises

1. Each Contracting Party shall ensure that any state enterprise which it maintains or establishes shall conduct its activities in relation to the sale or provision of goods and services in its Area in a manner consistent with the Contracting Party's obligations under Part III of this Treaty.

2. No Contracting Party shall encourage or require such a state enterprise to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under other provisions of this Treaty.

3. Each Contracting Party shall ensure that if it establishes or maintains an entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party's obligations under this Treaty.

4. No Contracting Party shall encourage or require any entity to which it grants exclusive or special privileges to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under this Treaty.

5. For the purposes of this Article, "entity" includes any enterprise, agency or other organization or individual.

Article 23
Observance by Sub-National Authorities

1. Each Contracting Party is fully responsible under this Treaty for the observance of all provisions of

the Treaty, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its Area.

2. The dispute settlement provisions in Parts II, IV and V of this Treaty may be invoked in respect of measures affecting the observance of the Treaty by a Contracting Party which have been taken by regional or local governments or authorities within the Area of the Contracting Party.

Article 24
Exceptions

1. This Article shall not apply to Articles 12, 13 and 29.

2. The provisions of this Treaty other than
(a) those referred to in paragraph (1); and

(b) with respect to subparagraph (i), Part III of the Treaty shall not preclude any Contracting Party from adopting or enforcing any measure
(i) necessary to protect human, animal or plant life or health;
(ii) essential to the acquisition or distribution of Energy Materials and Products in conditions of short supply arising from causes outside the control of that Contracting Party, provided that any such measure shall be consistent with the principles that
A. all other Contracting Parties are entitled to an equitable share of the international supply of such Energy Materials and Products; and
B. any such measure that is inconsistent with this Treaty shall be discontinued as soon as the conditions giving rise to it have ceased to exist; or
(iii) designed to benefit Investors who are aboriginal people or socially or economically disadvantaged individuals or groups or their Investments and notified to the Secretariat as such, provided that such measure
A. has no significant impact on that Contracting Party's economy; and
B. does not discriminate between Investors of any other Contracting Party and Investors of that Contracting Party not included among those for whom the measure is intended, provided that no such measure shall constitute a disguised restriction on Economic Activity in the Energy Sector, or arbitrary or unjustifiable discrimination between Contracting Parties or between Investors or other interested persons of Contracting Parties. Such measures shall be duly motivated and shall not nullify or impair any benefit one or more other Contracting Parties may reasonably expect under this Treaty to an extent greater than is strictly necessary to the stated end.

3. The provisions of this Treaty other than those referred to in paragraph (1) shall not be construed to prevent any Contracting Party from taking any measure which it considers necessary:
(a) for the protection of its essential security interests including those
(i) relating to the supply of Energy Materials and Products to a military establishment; or
(ii) taken in time of war, armed conflict or other emergency in international relations;

(b) relating to the implementation of national policies respecting the non-proliferation of nuclear weapons or other nuclear explosive devices or needed to fulfil its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines, and other international nuclear non-proliferation obligations or understandings; or

(c) for the maintenance of public order.
Such measure shall not constitute a disguised restriction on Transit.

4. The provisions of this Treaty which accord most favoured nation treatment shall not oblige any Contracting Party to extend to the Investors of any other Contracting Party any preferential treatment:
(a) resulting from its membership of a free-trade area or customs union; or

(b) which is accorded by a bilateral or multilateral agreement concerning economic co-operation between states that were constituent parts of the former Union of Soviet Socialist Republics pending the establishment of their mutual economic relations on a definitive basis.

Article 25
Economic Integration Agreements

1. The provisions of this Treaty shall not be so construed as to oblige a Contracting Party which is party to an Economic Integration Agreement (hereinafter referred to as "EIA") to extend, by means of most favoured nation treatment, to another Contracting Party which is not a party to that EIA, any preferential treatment applicable between the parties to that EIA as a result of their being parties thereto.

2. For the purposes of paragraph (1), "EIA" means an agreement substantially liberalizing, inter alia, trade and investment, by providing for the absence or elimination of substantially all discrimination between or among parties thereto through the elimination of existing discriminatory measures and/or the prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time frame.

3. This Article shall not affect the application of the GATT and Related Instruments according to Article 29.

PART V
DISPUTE SETTLEMENT

Article 26
Settlement of Disputes Between an Investor and a Contracting Party

1. Disputes between a Contracting Party and an Investor of another Contracting Party relating to an Investment of the latter in the Area of the former, which concern an alleged breach of an obligation of the former under Part III shall, if possible, be settled amicably.

2. If such disputes can not be settled according to the provisions of paragraph (1) within a period of three months from the date on which either party to the dispute requested amicable settlement, the Investor party to the dispute may choose to submit it for resolution:

(a) to the courts or administrative tribunals of the Contracting Party party to the dispute;

(b) in accordance with any applicable, previously agreed dispute settlement procedure; or

(c) in accordance with the following paragraphs of this Article.

3.(a) Subject only to subparagraphs (b) and (c), each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration or conciliation in accordance with the provisions of this Article.

(i) The Contracting Parties listed in Annex ID do not give such unconditional consent where the Investor has previously submitted the dispute under subparagraph (2)(a) or (b).

(ii) For the sake of transparency, each Contracting Party that is listed in Annex ID shall provide a written statement of its policies, practices and conditions in this regard to the Secretariat no later than the date of the deposit of its instrument of ratification, acceptance or approval in accordance with Article 39 or the deposit of its instrument of accession in accordance with Article 41.

(b) A Contracting Party listed in Annex IA does not give such unconditional consent with respect to a dispute arising under the last sentence of Article 10(1).

4. In the event that an Investor chooses to submit the dispute for resolution under subparagraph (2)(c), the Investor shall further provide its consent in writing for the dispute to be submitted to:

(a) (i) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington, 18 March 1965 (hereinafter referred to as the "ICSID Convention"), if the Contracting Party of the Investor and the Contracting Party party to the dispute are both parties to the ICSID Convention; or

(ii) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention referred to in subparagraph (a)(i), under the rules governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Centre (hereinafter referred to as the "Additional Facility Rules"), if the Contracting Party of the Investor or the Contracting Party party to the dispute, but not both, is a party to the ICSID Convention;

(b) a sole arbitrator or ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (hereinafter referred to as "UNCITRAL"); or

(c) an arbitral proceeding under the Arbitration Institute of the Stockholm Chamber of Commerce.

5. (a) The consent given in paragraph (3) together with the written consent of the Investor given pursuant to paragraph (4) shall be considered to satisfy the requirement for:

(i) written consent of the parties to a dispute for purposes of Chapter II of the ICSID Convention and for purposes of the Additional Facility Rules;

(ii) an "agreement in writing" for purposes of article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958 (hereinafter referred to as the "New York Convention"); and

(iii) "the parties to a contract [to] have agreed in writing" for the purposes of article 1 of the UNCITRAL Arbitration Rules.

6. A tribunal established under paragraph (4) shall decide the issues in dispute in accordance with this Treaty and applicable rules and principles of international law.

7. An Investor other than a natural person which has the nationality of a Contracting Party party to the dispute on the date of the consent in writing referred to in paragraph (4) and which, before a dispute between it and that Contracting Party arises, is controlled by Investors of another Contracting Party, shall for the purpose of article 25(2)(b) of the ICSID Convention be treated as a "national of another Contracting State" and shall for the purpose of article 1(6) of the Additional Facility Rules be treated as a "national of another State".

8. The awards of arbitration, which may include an award of interest, shall be final and binding upon the parties to the dispute. An award of arbitration concerning a measure of a sub-national government or authority of the disputing Contracting Party shall provide that the Contracting Party may pay monetary damages in lieu of any other remedy granted. Each Contracting Party shall carry out without delay any such award and shall make provision for the effective enforcement in its Area of such awards.

Article 27
Settlement of Disputes Between Contracting Parties

1. Contracting Parties shall endeavour to settle disputes concerning the application or interpretation of this Treaty through diplomatic channels.

2. If a dispute has not been settled in accordance with paragraph (1) within a reasonable period of time, either party thereto may, except as otherwise provided in this Treaty or agreed in writing by the Contracting Parties, and except as concerns the application or interpretation of Article 6 or Article 19 or, for Contracting Parties listed in Annex IA, the last sentence of Article 10(1), upon written notice to the other party to the dispute submit the matter to an ad hoc tribunal under this Article.

3. Such an ad hoc arbitral tribunal shall be constituted as follows:

(a) The Contracting Party instituting the proceedings shall appoint one member of the tribunal and inform the other Contracting Party to the dispute of its appointment within 30 days of receipt of the notice referred to in paragraph (2) by the other Contracting Party;

(b) Within 60 days of the receipt of the written notice referred to in paragraph (2), the other Contracting Party party to the dispute shall appoint one member. If the appointment is not made within the time limit prescribed, the Contracting Party having instituted the proceedings may, within 90 days of the receipt of the written notice referred to in paragraph (2), request that the appointment be made in accordance with subparagraph (d);

(c) A third member, who may not be a national or citizen of a Contracting Party party to the dispute, shall be appointed by the Contracting Parties parties to the dispute. That member shall be the President of the tribunal. If, within 150 days of the receipt of the notice referred to in paragraph (2), the Contracting Parties are unable to agree on the appointment of a third member, that appointment shall be made, in accordance with subparagraph (d), at the request of either Contracting Party submitted within 180 days of the receipt of that notice;

(d) Appointments requested to be made in accordance with this paragraph shall be made by the Secretary-General of the Permanent Court of International Arbitration within 30 days of the receipt of a request to do so. If the Secretary-General is prevented from discharging this task, the appointments shall be made by the First Secretary of the Bureau. If the latter, in turn, is prevented from discharging this task, the appointments shall be made by the most senior Deputy;

(e) Appointments made in accordance with subparagraphs (a) to (d) shall be made with regard to the qualifications and experience, particularly in matters covered by this Treaty, of the members to be appointed;

(f) In the absence of an agreement to the contrary between the Contracting Parties, the Arbitration Rules of UNCITRAL shall govern, except to the extent modified by the Contracting Parties parties to the dispute or by the arbitrators. The tribunal shall take its decisions by a majority vote of its members;

(g) The tribunal shall decide the dispute in accordance with this Treaty and applicable rules and principles of international law;

(h) The arbitral award shall be final and binding upon the Contracting Parties parties to the dispute;

(i) Where, in making an award, a tribunal finds that a measure of a regional or local government or authority within the Area of a Contracting Party listed in Part I of Annex P is not in conformity with this Treaty, either party to the dispute may invoke the provisions of Part II of Annex P;

(j) The expenses of the tribunal, including the remuneration of its members, shall be borne in equal shares by the Contracting Parties parties to the dispute. The tribunal may, however, at its discretion direct that a higher proportion of the costs be paid by one of the Contracting Parties parties to the dispute;

(k) Unless the Contracting Parties parties to the dispute agree otherwise, the tribunal shall sit in The Hague, and use the premises and facilities of the Permanent Court of Arbitration;

(l) A copy of the award shall be deposited with the Secretariat which shall make it generally available.

Article 28
Non-Application of Article 27 to Certain Disputes

A dispute between Contracting Parties with respect to the application or interpretation of Article 5 or 29 shall not be settled under Article 27 unless the Contracting Parties parties to the dispute so agree.

PART VI
TRANSITIONAL PROVISIONS

Article 29
Interim Provisions on Trade-Related Matters

1. The provisions of this Article shall apply to trade in Energy Materials and Products while any Contracting Party is not a party to the GATT and Related Instruments.

2.(a) Trade in Energy Materials and Products between Contracting Parties at least one of which is not a party to the GATT or a relevant Related Instrument shall be governed, subject to subparagraphs (b) and (c) and to the exceptions and rules provided for in Annex G, by the provisions of GATT 1947 and Related Instruments, as applied on 1 March 1994 and practised with regard to Energy Materials and Products by parties to GATT 1947 among themselves, as if all Contracting Parties were parties to GATT 1947 and Related Instruments.

(b) Such trade of a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics may instead be governed, subject to the provisions of Annex TFU, by an agreement between two or more such states, until 1 December 1999 or the admission of that Contracting Party to the GATT, whichever is the earlier.

(c) As concerns trade between any two parties to the GATT, subparagraph (a) shall not apply if either of those parties is not a party to GATT 1947.

3. Each signatory to this Treaty, and each state or Regional Economic Integration Organization acceding to this treaty, shall on the date of its signature or of its deposit of its instrument of accession provide to the Secretariat a list of all tariff rates and other charges levied on Energy Materials and Products at the time of importation or exportation, notifying the level of such rates and charges applied on such date of signature or deposit. Any changes to such rates or other charges shall be notified to the Secretariat, which shall inform the Contracting Parties of such changes.

4. Each Contracting Party shall endeavour not to increase any tariff rate or other charge levied at the time of importation or exportation:

(a) in the case of the importation of Energy Materials and Products described in Part I of the Schedule relating to the Contracting Party referred to in article II of the GATT, above the level set forth in that Schedule, if the Contracting Party is a party to the GATT;

(b) in the case of the exportation of Energy Materials and Products, and that of their importation if the Contracting Party is not a party to the GATT, above the level most recently notified to the Secretariat, except as permitted by the provisions made applicable by subparagraph (2)(a).

5. A Contracting Party may increase such tariff rate or other charge above the level referred to in paragraph (4) only if:

(a) in the case of a rate or other charge levied at the time of importation, such action is not inconsistent with the applicable provisions of the GATT other than those provisions of GATT 1947 and Related Instruments listed in Annex G and the corresponding provisions of GATT 1994 and Related Instruments; or

(b) it has, to the fullest extent practicable under its legislative procedures, notified the Secretariat of its proposal for such an increase, given other interested Contracting Parties reasonable opportunity for consultation with respect to its proposal, and accorded consideration to any representations from such Contracting Parties.

6. Signatories undertake to commence negotiations not later than 1 January 1995 with a view to concluding by 1 January 1998, as appropriate in the light of any developments in the world trading system, a text of an amendment to this Treaty which shall, subject to conditions to be laid down therein, commit each Contracting Party not to increase such tariffs or charges beyond the level prescribed under that amendment.

7. Annex D shall apply to disputes regarding compliance with provisions applicable to trade under this Article and, unless both Contracting Parties agree otherwise, to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a party to the GATT, except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

(a) has been notified in accordance with and meets the other requirements of subparagraph (2)(b) and Annex TFU; or

(b) establishes a free-trade area or a customs union as described in article XXIV of the GATT.

Article 30
Developments in International Trading Arrangements

Contracting Parties undertake that in the light of the results of the Uruguay Round of Multilateral Trade Negotiations embodied principally in the Final Act thereof done at Marrakesh, 15 April 1994, they will commence consideration not later than 1 July 1995 or the entry into force of this Treaty, whichever is the later, of appropriate amendments to this Treaty with a view to the adoption of any such amendments by the Charter Conference.

Article 31
Energy-Related Equipment

The provisional Charter Conference shall at its first meeting commence examination of the inclusion of energy-related equipment in the trade provisions of this Treaty.

Article 32
Transitional Arrangements

1. In recognition of the need for time to adapt to the requirements of a market economy, a Contracting Party listed in Annex T may temporarily suspend full compliance with its obligations under one or more of the following provisions of this Treaty, subject to the conditions in paragraphs (3) to (6):
   - Article 6(2) and (5)
   - Article 7(4)
   - Article 9(1)
   - Article 10(7) specific measures
   - Article 14(1)(d) related only to transfer of unspent earnings
   - Article 20(3)
   - Article 22(1) and (3)

2. Other Contracting Parties shall assist any Contracting Party which has suspended full compliance under paragraph (1) to achieve the conditions under which such suspension can be terminated. This assistance may be given in whatever form the other Contracting Parties consider most effective to respond to the needs notified under subparagraph (4)(c) including, where appropriate, through bilateral or multilateral arrangements.

3. The applicable provisions, the stages towards full implementation of each, the measures to be taken and the date or, exceptionally, contingent event, by which each stage shall be completed and measure taken are listed in Annex T for each Contracting Party claiming transitional arrangements. Each such Contracting Party shall take the measure listed by the date indicated for the relevant provision and stage as set out in Annex T. Contracting Parties which have temporarily suspended full compliance under paragraph (1) undertake to comply fully with the relevant obligations by 1 July 2001. Should a Contracting Party find it necessary, due to exceptional circumstances, to request that the period of such temporary suspension be extended or that any further temporary suspension not previously listed in Annex T be introduced, the decision on a request to amend Annex T shall be made by the Charter Conference.

4. A Contracting Party which has invoked transitional arrangements shall notify the Secretariat no less often than once every 12 months:

(a) of the implementation of any measures listed in its Annex T and of its general progress to full compliance;

(b) of the progress it expects to make during the next 12 months towards full compliance with its obligations, of any problem it foresees and of its proposals for dealing with that problem;

(c) of the need for technical assistance to facilitate completion of the stages set out in Annex T as necessary for the full implementation of this Treaty, or to deal with any problem notified pursuant to subparagraph (b) as well as to promote other necessary market-oriented reforms and modernization of its energy sector;

(d) of any possible need to make a request of the kind referred to in paragraph (3).

5. The Secretariat shall:

(a) circulate to all Contracting Parties the notifications referred to in paragraph (4);

(b) circulate and actively promote, relying where appropriate on arrangements existing within other international organizations, the matching of needs for and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c);

(c) circulate to all Contracting Parties at the end of each six month period a summary of any notifications made under subparagraph (4)(a) or (d).

6. The Charter Conference shall annually review the progress by Contracting Parties towards implementation of the provisions of this Article and the matching of needs and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c). In the course of that review it may decide to take appropriate action.

PART VII
STRUCTURE AND INSTITUTIONS

Article 33
Energy Charter Protocols and Declarations

1. The Charter Conference may authorize the negotiation of a number of Energy Charter Protocols or Declarations in order to pursue the objectives and principles of the Charter.

2. Any signatory to the Charter may participate in such negotiation.

3. A state or Regional Economic Integration Organization shall not become a party to a Protocol or Declaration unless it is, or becomes at the same time, a signatory to the Charter and a Contracting Party to this Treaty.

4. Subject to paragraph (3) and subparagraph (6)(a), final provisions applying to a Protocol shall be defined in that Protocol.

5. A Protocol shall apply only to the Contracting Parties which consent to be bound by it, and shall not derogate from the rights and obligations of those Contracting Parties not party to the Protocol.

6.(a) A Protocol may assign duties to the Charter Conference and functions to the Secretariat, provided that no such assignment may be made by an amendment to a Protocol unless that amendment is approved by the Charter Conference, whose approval shall not be subject to any provisions of the Protocol which are authorized by subparagraph (b).

(b) A Protocol which provides for decisions thereunder to be taken by the Charter Conference may, subject to subparagraph (a), provide with respect to such decisions:
   (i) for voting rules other than those contained in Article 36;
   (ii) that only parties to the Protocol shall be considered to be Contracting Parties for the purposes of Article 36 or eligible to vote under the rules provided for in the Protocol.

Article 34
Energy Charter Conference

1. The Contracting Parties shall meet periodically in the Energy Charter Conference (referred to herein as the "Charter Conference") at which each Contracting Party shall be entitled to have one representative. Ordinary meetings shall be held at intervals determined by the Charter Conference.

2. Extraordinary meetings of the Charter Conference may be held at such times as may be determined by the Charter Conference, or at the written request of any Contracting Party, provided that, within six weeks of the request being communicated to the Contracting Parties by the Secretariat, it is supported by at least one-third of the Contracting Parties.

3. The functions of the Charter Conference shall be to:

(a) carry out the duties assigned to it by this Treaty and any Protocols;

(b) keep under review and facilitate the implementation of the principles of the Charter and of the provisions of this Treaty and the Protocols;

(c) facilitate in accordance with this Treaty and the Protocols the co-ordination of appropriate general measures to carry out the principles of the Charter;

(d) consider and adopt programmes of work to be carried out by the Secretariat;

(e) consider and approve the annual accounts and budget of the Secretariat;

(f) consider and approve or adopt the terms of any headquarters or other agreement, including privileges and immunities considered necessary for the Charter Conference and the Secretariat;

(g) encourage co-operative efforts aimed at facilitating and promoting market-oriented reforms and modernization of energy sectors in those countries of Central and Eastern Europe and the former Union of Soviet Socialist Republics undergoing economic transition;

(h) authorize and approve the terms of reference for the negotiation of Protocols, and consider and adopt the texts thereof and of amendments thereto;

(i) authorize the negotiation of Declarations, and approve their issuance;

(j) decide on accessions to this Treaty;

(k) authorize the negotiation of and consider and approve or adopt association agreements;

(l) consider and adopt texts of amendments to this Treaty;

(m) consider and approve modifications of and technical changes to the Annexes to this Treaty;

(n) appoint the Secretary-General and take all decisions necessary for the establishment and functioning of the Secretariat including the structure, staff levels and standard terms of employment of officials and employees.

4. In the performance of its duties, the Charter Conference, through the Secretariat, shall co-operate with and make as full a use as possible, consistently with economy and efficiency, of the services and programmes of other institutions and organizations with established competence in matters related to the objectives of this Treaty.

5. The Charter Conference may establish such subsidiary bodies as it considers appropriate for the performance of its duties.

6. The Charter Conference shall consider and adopt rules of procedure and financial rules.

7. In 1999 and thereafter at intervals (of not more than five years) to be determined by the Charter Conference, the Charter Conference shall thoroughly review the functions provided for in this Treaty in the light of the extent to which the provisions of the Treaty and Protocols have been implemented. At the conclusion of each review the Charter Conference may amend or abolish the functions specified in paragraph (3) and may discharge the Secretariat.

Article 35
Secretariat

1. In carrying out its duties, the Charter Conference shall have a Secretariat which shall be composed of a Secretary-General and such staff as are the minimum consistent with efficient performance.

2. The Secretary-General shall be appointed by the Charter Conference. The first such appointment shall be for a maximum period of five years.

3. In the performance of its duties the Secretariat shall be responsible to and report to the Charter Conference.

4. The Secretariat shall provide the Charter Conference with all necessary assistance for the performance of its duties and shall carry out the functions assigned to it in this Treaty or in any Protocol and any other functions assigned to it by the Charter Conference.

5. The Secretariat may enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions.

Article 36
Voting

1. Unanimity of the Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions by the Charter Conference to:

(a) adopt amendments to this Treaty other than amendments to Articles 34 and 35 and Annex T;

(b) approve accessions to this Treaty under Article 41 by states or Regional Economic Integration Organizations which were not signatories to the Charter as of 16 June 1995;

(c) authorize the negotiation of and approve or adopt the text of association agreements;

(d) approve modifications to Annexes EM, NI, G and B;

(e) approve technical changes to the Annexes to this Treaty; and

(f) approve the Secretary-General's nominations of panelists under Annex D, paragraph (7).

(g) The Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Treaty. If agreement cannot be reached by consensus, paragraphs (2) to (5) shall apply.

2. Decisions on budgetary matters referred to in Article 34(3)(e) shall be taken by a qualified majority of Contracting Parties whose assessed contributions as specified in Annex B represent, in combination, at least three-fourths of the total assessed contributions specified therein.

3. Decisions on matters referred to in Article 34(7) shall be taken by a three-fourths majority of the Contracting Parties.

4. Except in cases specified in subparagraphs (1)(a) to (f), paragraphs (2) and (3), and subject to paragraph (6), decisions provided for in this Treaty shall be taken by a three-fourths majority of the Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

5. For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

6. Except as provided in paragraph (2), no decision referred to in this Article shall be valid unless it has the support of a simple majority of the Contracting Parties.

7. A Regional Economic Integration Organization shall, when voting, have a number of votes equal to the number of its member states which are Contracting Parties to this Treaty; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

8. In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Treaty, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

Article 37
Funding Principles

1. Each Contracting Party shall bear its own costs of representation at meetings of the Charter Conference and any subsidiary bodies.

2. The cost of meetings of the Charter Conference and any subsidiary bodies shall be regarded as a cost of the Secretariat.

3. The costs of the Secretariat shall be met by the Contracting Parties assessed according to their capacity to pay, determined as specified in Annex B, the provisions of which may be modified in accordance with Article 36(1)(d).

4. A Protocol shall contain provisions to assure that any costs of the Secretariat arising from that Protocol are borne by the parties thereto.

5. The Charter Conference may in addition accept voluntary contributions from one or more Contracting Parties or from other sources. Costs met from such contributions shall not be considered costs of the Secretariat for the purposes of paragraph (3).

PART VIII
FINAL PROVISIONS

Article 38
Signature

This Treaty shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations which have signed the Charter.

Article 39
Ratification, Acceptance or Approval

This Treaty shall be subject to ratification, acceptance or approval by signatories. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 40
Application To Territories

1. Any state or Regional Economic Integration Organization may at the time of signature, ratification, acceptance, approval or accession, by a declaration deposited with the Depositary, declare that the Treaty shall be binding upon it with respect to all the territories for the international relations of which it is responsible, or to one or more of them. Such declaration shall take effect at the time the Treaty enters into force for that Contracting Party.

2. Any Contracting Party may at a later date, by a declaration deposited with the Depositary, bind itself under this Treaty with respect to other territory specified in the declaration. In respect of such territory the Treaty shall enter into force on the ninetieth day following the receipt by the Depositary of such declaration.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification to the Depositary. The withdrawal shall, subject to the applicability of Article 47(3), become effective upon the expiry of one year after the date of receipt of such notification by the Depositary.

4. The definition of "Area" in Article 1(10) shall be construed having regard to any declaration deposited under this Article.

Article 41
Accession

This Treaty shall be open for accession, from the date on which the Treaty is closed for signature, by states and Regional Economic Integration Organizations which have signed the Charter, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depositary.

Article 42
Amendments

1. Any Contracting Party may propose amendments to this Treaty.

2. The text of any proposed amendment to this Treaty shall be communicated to the Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

3. Amendments to this Treaty, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depositary which shall submit them to all Contracting Parties for ratification, acceptance or approval.

4. Instruments of ratification, acceptance or approval of amendments to this Treaty shall be deposited with the Depositary. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the ninetieth day after deposit with the Depositary of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the ninetieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

Article 43
Association Agreements

1. The Charter Conference may authorize the negotiation of association agreements with states or Regional Economic Integration Organizations, or with international organizations, in order to pursue the objectives and principles of the Charter and the provisions of this Treaty or one or more Protocols.

2. The relationship established with and the rights enjoyed and obligations incurred by an associating state, Regional Economic Integration Organization, or international organization shall be appropriate to the particular circumstances of the association, and in each case shall be set out in the association agreement.

Article 44
Entry Into Force

1. This Treaty shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter as of 16 June 1995.

2. For each state or Regional Economic Integration Organization which ratifies, accepts or approves this Treaty or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance or approval, it shall enter into force on the ninetieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraph (1), any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member states of such Organization.

Article 45
Provisional Application

1. Each signatory agrees to apply this Treaty provisionally pending its entry into force for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its constitution, laws or regulations.

2.(a) Notwithstanding paragraph (1) any signatory may, when signing, deliver to the Depositary a declaration that it is not able to accept provisional application. The obligation contained in paragraph (1) shall not apply to a signatory making such a declaration. Any such signatory may at any time withdraw that declaration by written notification to the Depositary.

(b) Neither a signatory which makes a declaration in accordance with subparagraph (a) nor Investors of that signatory may claim the benefits of provisional application under paragraph (1).

(c) Notwithstanding subparagraph (a), any signatory making a declaration referred to in subparagraph (a) shall apply Part VII provisionally pending the entry into force of the Treaty for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its laws or regulations.

3.(a) Any signatory may terminate its provisional application of this Treaty by written notification to the Depositary of its intention not to become a Contracting Party to the Treaty. Termination of provisional application for any signatory shall take effect upon the expiration of 60 days from the date on which such signatory's written notification is received by the Depositary.

(b) In the event that a signatory terminates provisional application under subparagraph (a), the obligation of the signatory under paragraph (1) to apply Parts III and V with respect to any Investments made in its Area during such provisional application by Investors of other signatories shall nevertheless remain in effect with respect to those Investments for twenty years following the effective date of termination, except as otherwise provided in subparagraph (c).

(c) Subparagraph (b) shall not apply to any signatory listed in Annex PA. A signatory shall be removed from the list in Annex PA effective upon delivery to the Depositary of its request therefor.

4. Pending the entry into force of this Treaty the signatories shall meet periodically in the provisional Charter Conference, the first meeting of which shall be convened by the provisional Secretariat referred to in paragraph (5) not later than 180 days after the opening date for signature of the Treaty as specified in Article 38.

5. The functions of the Secretariat shall be carried out on an interim basis by a provisional Secretariat until the entry into force of this Treaty pursuant to Article 44 and the establishment of a Secretariat.

6. The signatories shall, in accordance with and subject to the provisions of paragraph (1) or subparagraph (2)(c) as appropriate, contribute to the costs of the provisional Secretariat as if the signatories were Contracting Parties under Article 37(3). Any modifications made to Annex B by the signatories shall terminate upon the entry into force of this Treaty.

7. A state or Regional Economic Integration Organization which, prior to this Treaty's entry into force, accedes to the Treaty in accordance with Article 41 shall, pending the Treaty's entry into force, have the rights and assume the obligations of a signatory under this Article.

Article 46
Reservations

No reservations may be made to this Treaty.

Article 47
Withdrawal

1. At any time after five years from the date on which this Treaty has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depositary of its withdrawal from the Treaty.

2. Any such withdrawal shall take effect upon the expiry of one year after the date of the receipt of the notification by the Depositary, or on such later date as may be specified in the notification of withdrawal.

3. The provisions of this Treaty shall continue to apply to Investments made in the Area of a Contracting Party by Investors of other Contracting Parties or

in the Area of other Contracting Parties by Investors of that Contracting Party as of the date when that Contracting Party's withdrawal from the Treaty takes effect for a period of 20 years from such date.

4. All Protocols to which a Contracting Party is party shall cease to be in force for that Contracting Party on the effective date of its withdrawal from this Treaty.

Article 48
Status of Annexes And Decisions

The Annexes to this Treaty and the Decisions set out in Annex 2 to the Final Act of the European Energy Charter Conference signed at Lisbon on 17 December 1994 are integral parts of the Treaty.

Article 49
Depositary

The Government of the Portuguese Republic shall be the Depositary of this Treaty.

Article 50
Authentic Texts

IN WITNESS WHEREOF THE UNDERSIGNED, being duly authorized to that effect, have signed this Treaty in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic.

DONE AT LISBON on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

(ANNEXES not included)

37. ENERGY CHARTER PROTOCOL ON ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS

PREAMBLE

The Contracting Parties to this Protocol,

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter, signed at The Hague on 17 December 1991; and in particular to the declarations therein that co-operation is necessary in the field of energy efficiency and related environmental protection;

Having regard also to the Energy Charter Treaty, opened for signature from 17 December 1994 to 16 June 1995; Mindful of the work undertaken by international organizations and fora in the field of energy efficiency and environmental aspects of the energy cycle;

Aware of the improvements in supply security, and of the significant economic and environmental gains, which result from the implementation of cost-effective energy efficiency measures; and aware of their importance for restructuring economies and improving living standards;

Recognizing that improvements in energy efficiency reduce negative environmental consequences of the energy cycle including global warming and acidification;

Convinced that energy prices should reflect as far as possible a competitive market, ensuring market-oriented price formation, including fuller reflection of environmental costs and benefits, and recognizing that such price formation is vital to progress in energy efficiency and associated environmental protection;

Appreciating the vital role of the private sector including small and medium-sized enterprises in promoting and implementing energy efficiency measures, and intent on ensuring a favourable institutional framework for economically viable investment in energy efficiency;

Recognizing that commercial forms of co-operation may need to be complemented by intergovernmental co-operation, particularly in the area of energy policy formulation and analysis as well as in other areas which are essential to the enhancement of energy efficiency but not suitable for private funding; and

Desiring to undertake co-operative and coordinated action in the field of energy efficiency and related environmental protection and to adopt a Protocol providing a framework for using energy as economically and efficiently as possible:

HAVE AGREED AS FOLLOWS:

PART I
INTRODUCTION

Article 1
Scope and Objectives of the Protocol

1. This Protocol defines policy principles for the promotion of energy efficiency as a considerable source of energy and for consequently reducing adverse Environmental Impacts of energy systems. It furthermore provides guidance on the development of energy efficiency programmes, indicates areas of co-operation and provides a framework for the development of co-operative and coordinated action. Such action may include the prospecting for, exploration, production, conversion, storage, transport, distribution, and consumption of energy, and may relate to any economic sector.

2. The objectives of this Protocol are:

(a) the promotion of energy efficiency policies consistent with sustainable development;

(b) the creation of framework conditions which induce producers and consumers to use energy as economically, efficiently and environmentally soundly as possible, particularly through the organization of efficient energy markets and a fuller reflection of environmental costs and benefits; and

(c) the fostering of co-operation in the field of energy efficiency.

Article 2
Definitions

As used in this Protocol:

1. "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Document is considered to be signature of the Charter.

2. "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Protocol and for which the Protocol is in force.

3. "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Protocol, including the authority to take decisions binding on them in respect of those matters.

4. "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts.

5. "Cost-Effectiveness" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

6. "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output.

7. "Environmental Impact" means any effect caused by a given activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

PART II
POLICY PRINCIPLES

Article 3
Basic Principles

Contracting Parties shall be guided by the following principles:

1. Contracting Parties shall co-operate and, as appropriate, assist each other in developing and implementing energy efficiency policies, laws and regulations.

2. Contracting Parties shall establish energy efficiency policies and appropriate legal and regulatory frameworks which promote, inter alia:

(a) efficient functioning of market mechanisms including market-oriented price formation and a fuller reflection of environmental costs and benefits;

(b) reduction of barriers to energy efficiency, thus stimulating investments;

(c) mechanisms for financing energy efficiency initiatives;

(d) education and awareness;

(e) dissemination and transfer of technologies;

(f) transparency of legal and regulatory frameworks.

3. Contracting Parties shall strive to achieve the full benefit of energy efficiency throughout the Energy Cycle. To this end they shall, to the best of their competence, formulate and implement energy efficiency policies and co-operative or coordinated actions based on Cost-Effectiveness and economic efficiency, taking due account of environmental aspects.

4. Energy efficiency policies shall include both short-term measures for the adjustment of previous practices and long-term measures to improve energy efficiency throughout the Energy Cycle.

5. When co-operating to achieve the objectives of this Protocol, Contracting Parties shall take into account the differences in adverse effects and abatement costs between Contracting Parties.

6. Contracting Parties recognize the vital role of the private sector. They shall encourage action by energy utilities, responsible authorities and specialised agencies, and close co-operation between industry and administrations.

7. Co-operative or coordinated action shall take into account relevant principles adopted in international agreements, aimed at protection and improvement of the environment, to which Contracting Parties are parties.

8. Contracting Parties shall take full advantage of the work and expertise of competent international or other bodies and shall take care to avoid duplication.

Article 4
Division of Responsibility and Coordination

Each Contracting Party shall strive to ensure that energy efficiency policies are coordinated among all of its responsible authorities.

Article 5
Strategies and Policy Aims

Contracting Parties shall formulate strategies and policy aims for Improving Energy Efficiency and thereby reducing Environmental Impacts of the Energy Cycle as appropriate in relation to their own specific energy conditions. These strategies and policy aims shall be transparent to all interested parties.

Article 6
Financing and Financial Incentives

1. Contracting Parties shall encourage the implementation of new approaches and methods for financing energy efficiency and energy-related environmental protection investments, such as joint venture arrangements between energy users and external investors (hereinafter referred to as "Third Party Financing").

2. Contracting Parties shall endeavour to take advantage of and promote access to private capital markets and existing international financing institutions in order to facilitate investments in Improving Energy Efficiency and in environmental protection related to energy efficiency.

3. Contracting Parties may, subject to the provisions of the Energy Charter Treaty and to their other international legal obligations, provide fiscal or financial incentives to energy users in order to facilitate market penetration of energy efficiency technologies, products and services. They shall strive to do so in a manner that both ensures transparency and minimizes the distortion of international markets.

Article 7
Promotion of Energy Efficient Technology

1. Consistent with the provisions of the Energy Charter Treaty, Contracting Parties shall encourage commercial trade and co-operation in energy efficient and environmentally sound technologies, energy-related services and management practices.

2. Contracting Parties shall promote the use of these technologies, services and management practices throughout the Energy Cycle.

Article 8
Domestic Programmes

1. In order to achieve the policy aims formulated according to Article 5, each Contracting Party shall develop, implement and regularly update energy efficiency programmes best suited to its circumstances.

2. These programmes may include activities such as the:

(a) development of long-term energy demand and supply scenarios to guide decision-making;

(b) assessment of the energy, environmental and economic impact of actions taken;

(c) definition of standards designed to improve the efficiency of energy using equipment, and efforts to harmonize these internationally to avoid trade distortions;

(d) development and encouragement of private initiative and industrial co-operation, including joint ventures;

(e) promotion of the use of the most energy efficient technologies that are economically viable and environmentally sound;

(f) encouragement of innovative approaches for investments in energy efficiency improvements, such as Third Party Financing and co-financing;

(g) development of appropriate energy balances and data bases, for example with data on energy demand at a sufficiently detailed level and on technologies for Improving Energy Efficiency;

(h) promotion of the creation of advisory and consultancy services which may be operated by public or private industry or utilities and which provide information about energy efficiency programmes and technologies, and assist consumers and enterprises;

(i) support and promotion of cogeneration and of measures to increase the efficiency of district heat production and distribution systems to buildings and industry;

(j) establishment of specialized energy efficiency bodies at appropriate levels, that are sufficiently funded and staffed to develop and implement policies.

3. In implementing their energy efficiency programmes, Contracting Parties shall ensure that adequate institutional and legal infrastructures exist.

PART III
INTERNATIONAL CO-OPERATION

Article 9
Areas of Co-Operation

The co-operation between Contracting Parties may take any appropriate form. Areas of possible co-operation are listed in the Annex.

PART IV
ADMINISTRATIVE AND LEGAL ARRANGEMENTS

Article 10
Role of the Charter Conference

1. All decisions made by the Charter Conference in accordance with this Protocol shall be made by only those Contracting Parties to the Energy Charter Treaty who are Contracting Parties to this Protocol.

2. The Charter Conference shall endeavour to adopt, within 180 days after the entry into force of this Protocol, procedures for keeping under review and facilitating the implementation of its provisions, including reporting requirements, as well as for identifying areas of co-operation in accordance with Article 9.

Article 11
Secretariat and Financing

1. The Secretariat established under Article 35 of the Energy Charter Treaty shall provide the Charter Conference with all necessary assistance for the performance of its duties under this Protocol and provide such other services in support of the

Protocol as may be required from time to time, subject to approval by the Charter Conference.

2. The costs of the Secretariat and Charter Conference arising from this Protocol shall be met by the Contracting Parties to this Protocol according to their capacity to pay, determined according to the formula specified in Annex B to the Energy Charter Treaty.

Article 12
Voting

1. Unanimity of Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions to:

(a) adopt amendments to this Protocol; and

(b) approve accessions to this Protocol under Article 16.

Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Protocol. If agreement cannot be reached by consensus, decisions on non-budgetary matters shall be taken by a three-fourths majority of Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

Decisions on budgetary matters shall be taken by a qualified majority of Contracting Parties whose assessed contributions under Article 11(2) represent, in combination, at least three-fourths of the total assessed contributions.

2. For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties to this Protocol present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

3. Except as provided in paragraph (1) in relation to budgetary matters, no decision referred to in this Article shall be valid unless it has the support of a simple majority of Contracting Parties.

4. A Regional Economic Integration Organization shall, when voting, have a number of votes equal to the number of its member states which are Contracting Parties to this Protocol; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

5. In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Protocol, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

Article 13
Relation to the Energy Charter Treaty

1. In the event of inconsistency between the provisions of this Protocol and the provisions of the Energy Charter Treaty, the provisions of the Energy Charter Treaty shall, to the extent of the inconsistency, prevail.

2. Article 10(1) and Article 12(1) to (3) shall not apply to votes in the Charter Conference on amendments to this Protocol which assign duties or functions to the Charter Conference or the Secretariat, the establishment of which is provided for in the Energy Charter Treaty.

PART V
FINAL PROVISONS

Article 14
Signature

This Protocol shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations whose representatives have signed the Charter and the Energy Charter Treaty.

Article 15
Ratification, Acceptance or Approval

This Protocol shall be subject to ratification, acceptance or approval by signatories. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 16
Accession

This Protocol shall be open for accession, from the date on which the Protocol is closed for signature, by states and Regional Economic Integration Organizations which have signed the Charter and are Contracting Parties to the Energy Charter Treaty, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depositary.

Article 17
Amendments

1. Any Contracting Party may propose amendments to this Protocol.

2. The text of any proposed amendment to this Protocol shall be communicated to Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

3. Amendments to this Protocol, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depositary which shall submit them to all Contracting Parties for ratification, acceptance or approval.

4. Instruments of ratification, acceptance or approval of amendments to this Protocol shall be deposited with the Depositary. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the thirtieth day after deposit with the Depositary of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

Article 18
Entry Into Force

1. This Protocol shall enter into force on the thirtieth day after the date of deposit of the fifteenth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter and a Contracting Party to the Energy Charter Treaty or on the same date as the Energy Charter Treaty enters into force, whichever is later.

2. For each state or Regional Economic Integration Organization for which the Energy Charter Treaty has entered into force and which ratifies, accepts, or approves this Protocol or accedes thereto after the Protocol has entered into force in accordance with paragraph (1), the Protocol shall enter into force on the thirtieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraph (1), any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member states of such Organization.

Article 19
Reservations

No reservations may be made to this Protocol.

Article 20
Withdrawal

1. At any time after this Protocol has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depositary of its withdrawal from the Protocol.

2. Any Contracting Party which withdraws from the Energy Charter Treaty shall be considered as also having withdrawn from this Protocol.

3. The effective date of withdrawal under paragraph (1) shall be ninety days after receipt of notification by the Depositary. The effective date of withdrawal under paragraph (2) shall be the same as the effective date of withdrawal from the Energy Charter Treaty.

Article 21
Depositary

The Government of the Portuguese Republic shall be the Depositary of this Protocol.

Article 22
Authentic Texts

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Protocol in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic.

DONE AT LISBON on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

38. UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA

THE PARTIES TO THIS CONVENTION

Affirming that human beings in affected or threatened areas are at the centre of concerns to combat desertification and mitigate the effects of drought,

Reflecting the urgent concern of the international community, including States and international organizations, about the adverse impacts of desertification and drought,

Aware that arid, semi-arid and dry sub-humid areas together account for a significant proportion of the Earth's land area and are the habitat and source of livelihood for a large segment of its population,

Acknowledging that desertification and drought are problems of global dimension in that they affect all regions of the world and that joint action of the international community is needed to combat desertification and/or mitigate the effects of drought,

Noting the high concentration of developing countries, notably the least developed countries, among those experiencing serious drought and/or desertification, and the particularly tragic consequences of these phenomena in Africa,

Noting also that desertification is caused by complex interactions among physical, biological, political, social, cultural and economic factors,

Considering the impact of trade and relevant aspects of international economic relations on the ability of affected countries to combat desertification adequately,

Conscious that sustainable economic growth, social development and poverty eradication are priorities of affected developing countries, particularly in Africa, and are essential to meeting sustainability objectives,

Mindful that desertification and drought affect sustainable development through their interrelationships with important social problems such as poverty, poor health and nutrition, lack of food security, and those arising from migration, displacement of persons and demographic dynamics,

Appreciating the significance of the past efforts and experience of States and international organizations in combating desertification and mitigating the effects of drought, particularly in implementing the Plan of Action to Combat Desertification which was adopted at the United Nations Conference on Desertification in 1977,

Realizing that, despite efforts in the past, progress in combating desertification and mitigating the effects of drought has not met expectations and that a new and more effective approach is needed at all levels within the framework of sustainable development,

Recognizing the validity and relevance of decisions adopted at the United Nations Conference on Environment and Development, particularly of Agenda 21 and its chapter 12, which provide a basis for combating desertification,

Reaffirming in this light the commitments of developed countries as contained in paragraph 13 of chapter 33 of Agenda 21,

Recalling General Assembly resolution 47/188, particularly the priority in it prescribed for Africa, and all other relevant United Nations resolutions, decisions and programmes on desertification and drought, as well as relevant declarations by African countries and those from other regions,

Reaffirming the Rio Declaration on Environment and Development which states, in its Principle 2, that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Recognizing that national Governments play a critical role in combating desertification and mitigating the effects of drought and that progress in that respect depends on local implementation of action programmes in affected areas,

Recognizing also the importance and necessity of international cooperation and partnership in combating desertification and mitigating the effects of drought,

Recognizing further the importance of the provision to affected developing countries, particularly in Africa, of effective means, inter alia substantial financial resources, including new and additional funding, and access to technology, without which it will be difficult for them to implement fully their commitments under this Convention,

Expressing concern over the impact of desertification and drought on affected countries in Central Asia and the Transcaucasus,

Stressing the important role played by women in regions affected by desertification and/or drought, particularly in rural areas of developing countries, and the importance of ensuring the full participation of both men and women at all levels in programmes to combat desertification and mitigate the effects of drought,

Emphasizing the special role of non-governmental organizations and other major groups in programmes to combat desertification and mitigate the effects of drought,

Bearing in mind the relationship between desertification and other environmental problems of global dimension facing the international and national communities,

Bearing also in mind the contribution that combating desertification can make to achieving the objectives of the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and other related environmental conventions,

Believing that strategies to combat desertification and mitigate the effects of drought will be most effective if they are based on sound systematic observation and rigorous scientific knowledge and if they are continuously re-evaluated,

Recognizing the urgent need to improve the effectiveness and coordination of international cooperation to facilitate the implementation of national plans and priorities,

Determined to take appropriate action in combating desertification and mitigating the effects of drought for the benefit of present and future generations,

HAVE AGREED AS FOLLOWS:

PART I
INTRODUCTION

Article 1
Use of terms

For the purposes of this Convention:

(a) "desertification" means land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities;

(b) "combating desertification" includes activities which are part of the integrated development of land in arid, semi-arid and dry sub-humid areas for sustainable development which are aimed at:
  (i) prevention and/or reduction of land degradation;
  (ii) rehabilitation of partly degraded land; and
  (iii) reclamation of desertified land;

(c) "drought" means the naturally occurring phenomenon that exists when precipitation has been significantly below normal recorded levels, causing serious hydrological imbalances that adversely affect land resource production systems;

(d) "mitigating the effects of drought" means activities related to the prediction of drought and intended to reduce the vulnerability of society and natural systems to drought as it relates to combating desertification;

(e) "land" means the terrestrial bio-productive system that comprises soil, vegetation, other biota, and the ecological and hydrological processes that operate within the system;

(f) "land degradation" means reduction or loss, in arid, semi-arid and dry sub-humid areas, of the biological or economic productivity and complexity of rainfed cropland, irrigated cropland, or range, pasture, forest and woodlands resulting from land uses or from a process or combination of processes, including processes arising from human activities and habitation patterns, such as:
  (i) soil erosion caused by wind and/or water;
  (ii) deterioration of the physical, chemical and biological or economic properties of soil; and
  (iii) long-term loss of natural vegetation;

(g) "arid, semi-arid and dry sub-humid areas" means areas, other than polar and sub-polar regions, in which the ratio of annual precipitation to potential evapotranspiration falls within the range from 0.05 to 0.65;

(h) "affected areas" means arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification;

(i) "affected countries" means countries whose lands include, in whole or in part, affected areas;

(j) "regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(k) "developed country Parties" means developed country Parties and regional economic integration organizations constituted by developed countries.

Article 2
Objective

1. The objective of this Convention is to combat

desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas.

2. Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.

Article 3
Principles

In order to achieve the objective of this Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

(a) the Parties should ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities and that an enabling environment is created at higher levels to facilitate action at national and local levels;

(b) the Parties should, in a spirit of international solidarity and partnership, improve cooperation and coordination at subregional, regional and international levels, and better focus financial, human, organizational and technical resources where they are needed;

(c) the Parties should develop, in a spirit of partnership, cooperation among all levels of government, communities, non-governmental organizations and landholders to establish a better understanding of the nature and value of land and scarce water resources in affected areas and to work towards their sustainable use; and

d) the Parties should take into full consideration the special needs and circumstances of affected developing country Parties, particularly the least developed among them.

PART II
GENERAL PROVISIONS

Article 4
General obligations

1. The Parties shall implement their obligations under this Convention, individually or jointly, either through existing or prospective bilateral and multilateral arrangements or a combination thereof, as appropriate, emphasizing the need to coordinate efforts and develop a coherent long-term strategy at all levels.

2. In pursuing the objective of this Convention, the Parties shall:

(a) adopt an integrated approach addressing the physical, biological and socio-economic aspects of the processes of desertification and drought;

(b) give due attention, within the relevant international and regional bodies, to the situation of affected developing country Parties with regard to international trade, marketing arrangements and debt with a view to establishing an enabling international economic environment conducive to the promotion of sustainable development;

(c) integrate strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought;

(d) promote cooperation among affected country Parties in the fields of environmental protection and the conservation of land and water resources, as they relate to desertification and drought;

(e) strengthen subregional, regional and international cooperation;

(f) cooperate within relevant intergovernmental organizations;

(g) determine institutional mechanisms, if appropriate, keeping in mind the need to avoid duplication; and

(h) promote the use of existing bilateral and multilateral financial mechanisms and arrangements that mobilize and channel substantial financial resources to affected developing country Parties in combating desertification and mitigating the effects of drought.

3. Affected developing country Parties are eligible for assistance in the implementation of the Convention.

Article 5
Obligations of affected country Parties

In addition to their obligations pursuant to article 4, affected country Parties undertake to:

(a) give due priority to combating desertification and mitigating the effects of drought, and allocate adequate resources in accordance with their circumstances and capabilities;

(b) establish strategies and priorities, within the framework of sustainable development plans and/or policies, to combat desertification and mitigate the effects of drought;

(c) address the underlying causes of desertification and pay special attention to the socio- economic factors contributing to desertification processes;

(d) promote awareness and facilitate the participation of local populations, particularly women and youth, with the support of non-governmental organizations, in efforts to combat desertification and mitigate the effects of drought; and

(e) provide an enabling environment by strengthening, as appropriate, relevant existing legislation and, where they do not exist, enacting new laws and establishing long-term policies and action programmes.

Article 6
Obligations of developed country Parties

In addition to their general obligations pursuant to article 4, developed country Parties undertake to:

(a) actively support, as agreed, individually or jointly, the efforts of affected developing country Parties, particularly those in Africa, and the least developed countries, to combat desertification and mitigate the effects of drought;

(b) provide substantial financial resources and other forms of support to assist affected developing country Parties, particularly those in Africa, effectively to develop and implement their own long-term plans and strategies to combat desertification and mitigate the effects of drought;

(c) promote the mobilization of new and additional funding pursuant to article 20, paragraph 2 (b);

(d) encourage the mobilization of funding from the private sector and other non-governmental sources; and

(e) promote and facilitate access by affected country Parties, particularly affected developing country Parties, to appropriate technology, knowledge and know-how.

Article 7
Priority for Africa

In implementing this Convention, the Parties shall give priority to affected African country Parties, in the light of the particular situation prevailing in that region, while not neglecting affected developing country Parties in other regions.

Article 8
Relationship with other conventions

1. The Parties shall encourage the coordination of activities carried out under this Convention and, if they are Parties to them, under other relevant international agreements, particularly the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity, in order to derive maximum benefit from activities under each agreement while avoiding duplication of effort. The Parties shall encourage the conduct of joint programmes, particularly in the fields of research, training, systematic observation and information collection and exchange, to the extent that such activities may contribute to achieving the objectives of the agreements concerned.

2. The provisions of this Convention shall not affect the rights and obligations of any Party deriving from a bilateral, regional or international agreement into which it has entered prior to the entry into force of this Convention for it.

PART III
ACTION PROGRAMMES, SCIENTIFIC AND TECHNICAL COOPERATION AND SUPPORTING MEASURES

SECTION 1: ACTION PROGRAMMES

Article 9
Basic approach

1. In carrying out their obligations pursuant to article 5, affected developing country Parties and any other affected country Party in the framework of its regional implementation annex or, otherwise, that has notified the Permanent Secretariat in writing of its intention to prepare a national action programme, shall, as appropriate, prepare, make public and implement national action programmes, utilizing and building, to the extent possible, on existing relevant successful plans and programmes, and subregional and regional action programmes, as the central element of the strategy to combat desertification and mitigate the effects of drought. Such programmes shall be updated through a continuing participatory process on the basis of lessons from field action, as well as the results of research. The preparation of national action programmes shall be closely interlinked with other efforts to formulate national policies for sustainable development.

2. In the provision by developed country Parties of different forms of assistance under the terms of article 6, priority shall be given to supporting, as agreed, national, subregional and regional action programmes of affected developing country Parties, particularly those in Africa, either directly or through relevant multilateral organizations or both.

3. The Parties shall encourage organs, funds and programmes of the United Nations system and other relevant intergovernmental organizations, academic institutions, the scientific community and non-governmental organizations in a position to cooperate, in accordance with their mandates

and capabilities, to support the elaboration, implementation and follow-up of action programmes.

Article 10
National action programmes

1. The purpose of national action programmes is to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought.

2. National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia:

(a) incorporate long-term strategies to combat desertification and mitigate the effects of drought, emphasize implementation and be integrated with national policies for sustainable development;

(b) allow for modifications to be made in response to changing circumstances and be sufficiently flexible at the local level to cope with different socio-economic, biological and geo-physical conditions;

(c) give particular attention to the implementation of preventive measures for lands that are not yet degraded or which are only slightly degraded;

(d) enhance national climatological, meteorological and hydrological capabilities and the means to provide for drought early warning;

(e) promote policies and strengthen institutional frameworks which develop cooperation and coordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;

(f) provide for effective participation at the local, national and regional levels of non- governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision-making, and implementation and review of national action programmes; and

(g) require regular review of, and progress reports on, their implementation.

3. National action programmes may include, inter alia, some or all of the following measures to prepare for and mitigate the effects of drought:

(a) establishment and/or strengthening, as appropriate, of early warning systems, including local and national facilities and joint systems at the subregional and regional levels, and mechanisms for assisting environmentally displaced persons;

(b) strengthening of drought preparedness and management, including drought contingency plans at the local, national, subregional and regional levels, which take into consideration seasonal to interannual climate predictions;

(c) establishment and/or strengthening, as appropriate, of food security systems, including storage and marketing facilities, particularly in rural areas;

(d) establishment of alternative livelihood projects that could provide incomes in drought prone areas; and

(e) development of sustainable irrigation programmes for both crops and livestock.

4. Taking into account the circumstances and requirements specific to each affected country Party, national action programmes include, as appropriate, inter alia, measures in some or all of the following priority fields as they relate to combating desertification and mitigating the effects of drought in affected areas and to their populations: promotion of alternative livelihoods and improvement of national economic environments with a view to strengthening programmes aimed at the eradication of poverty and at ensuring food security; demographic dynamics; sustainable management of natural resources; sustainable agricultural practices; development and efficient use of various energy sources; institutional and legal frameworks; strengthening of capabilities for assessment and systematic observation, including hydrological and meteorological services, and capacity building, education and public awareness.

Article 11
Subregional and regional action programmes

Affected country Parties shall consult and cooperate to prepare, as appropriate, in accordance with relevant regional implementation annexes, subregional and/or regional action programmes to harmonize, complement and increase the efficiency of national programmes. The provisions of article 10 shall apply mutatis mutandis to subregional and regional programmes. Such cooperation may include agreed joint programmes for the sustainable management of transboundary natural resources, scientific and technical cooperation, and strengthening of relevant institutions.

Article 12
International cooperation

Affected country Parties, in collaboration with other Parties and the international community, should

cooperate to ensure the promotion of an enabling international environment in the implementation of the Convention. Such cooperation should also cover fields of technology transfer as well as scientific research and development, information collection and dissemination and financial resources.

Article 13
Support for the elaboration and implementation of action programmes

1. Measures to support action programmes pursuant to article 9 include, inter alia:

(a) financial cooperation to provide predictability for action programmes, allowing for necessary long-term planning;

(b) elaboration and use of cooperation mechanisms which better enable support at the local level, including action through non-governmental organizations, in order to promote the replicability of successful pilot programme activities where relevant;

(c) increased flexibility in project design, funding and implementation in keeping with the experimental, iterative approach indicated for participatory action at the local community level; and

(d) as appropriate, administrative and budgetary procedures that increase the efficiency of cooperation and of support programmes.

2. In providing such support to affected developing country Parties, priority shall be given to African country Parties and to least developed country Parties.

Article 14
Coordination in the elaboration and implementation of action programmes

1. The Parties shall work closely together, directly and through relevant intergovernmental organizations, in the elaboration and implementation of action programmes.

2. The Parties shall develop operational mechanisms, particularly at the national and field levels, to ensure the fullest possible coordination among developed country Parties, developing country Parties and relevant intergovernmental and non-governmental organizations, in order to avoid duplication, harmonize interventions and approaches, and maximize the impact of assistance. In affected developing country Parties, priority will be given to coordinating activities related to international cooperation in order to maximize the efficient use of resources, to ensure responsive assistance, and to facilitate the implementation of national action programmes and priorities under this Convention.

Article 15
Regional implementation annexes

Elements for incorporation in action programmes shall be selected and adapted to the socio- economic, geographical and climatic factors applicable to affected country Parties or regions, as well as to their level of development. Guidelines for the preparation of action programmes and their exact focus and content for particular subregions and regions are set out in the regional implementation annexes.

SECTION 2: SCIENTIFIC AND TECHNICAL COOPERATION

Article 16
Information collection, analysis and exchange

The Parties agree, according to their respective capabilities, to integrate and coordinate the collection, analysis and exchange of relevant short term and long term data and information to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, inter alia, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate:

(a) facilitate and strengthen the functioning of the global network of institutions and facilities for the collection, analysis and exchange of information, as well as for systematic observation at all levels, which shall, inter alia:
  (i) aim to use compatible standards and systems;
  (ii) encompass relevant data and stations, including in remote areas;
  (iii) use and disseminate modern technology for data collection, transmission and assessment on land degradation; and
  (iv) link national, subregional and regional data and information centres more closely with global information sources;

(b) ensure that the collection, analysis and exchange of information address the needs of local communities and those of decision makers, with a view to resolving specific problems, and that local communities are involved in these activities;

(c) support and further develop bilateral and multilateral programmes and projects aimed at defining, conducting, assessing and financing the collection, analysis and exchange of data and information, including, inter alia, integrated sets of physical, biological, social and economic indicators;

(d) make full use of the expertise of competent intergovernmental and non-governmental organizations, particularly to disseminate relevant information and experiences among target groups in different regions;

(e) give full weight to the collection, analysis and exchange of socio-economic data, and their integration with physical and biological data;

(f) exchange and make fully, openly and promptly available information from all publicly available sources relevant to combating desertification and mitigating the effects of drought; and

(g) subject to their respective national legislation and/or policies, exchange information on local and traditional knowledge, ensuring adequate protection for it and providing appropriate return from the benefits derived from it, on an equitable basis and on mutually agreed terms, to the local populations concerned.

Article 17
Research and development

1. The Parties undertake, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national, subregional, regional and international institutions. To this end, they shall support research activities that:

(a) contribute to increased knowledge of the processes leading to desertification and drought and the impact of, and distinction between, causal factors, both natural and human, with a view to combating desertification and mitigating the effects of drought, and achieving improved productivity as well as sustainable use and management of resources;

(b) respond to well defined objectives, address the specific needs of local populations and lead to the identification and implementation of solutions that improve the living standards of people in affected areas;

(c) protect, integrate, enhance and validate traditional and local knowledge, know-how and practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge;

(d) develop and strengthen national, subregional and regional research capabilities in affected developing country Parties, particularly in Africa, including the development of local skills and the strengthening of appropriate capacities, especially in countries with a weak research base, giving particular attention to multidisciplinary and participative socio- economic research;

(e) take into account, where relevant, the relationship between poverty, migration caused by environmental factors, and desertification;

(f) promote the conduct of joint research programmes between national, subregional, regional and international research organizations, in both the public and private sectors, for the development of improved, affordable and accessible technologies for sustainable development through effective participation of local populations and communities; and

(g) enhance the availability of water resources in affected areas, by means of, inter alia, cloud-seeding.

2. Research priorities for particular regions and subregions, reflecting different local conditions, should be included in action programmes. The Conference of the Parties shall review research priorities periodically on the advice of the Committee on Science and Technology.

Article 18
Transfer, acquisition, adaptation and development of technology

1. The Parties undertake, as mutually agreed and in accordance with their respective national legislation and/or policies, to promote, finance and/or facilitate the financing of the transfer, acquisition, adaptation and development of environmentally sound, economically viable and socially acceptable technologies relevant to combating desertification and/or mitigating the effects of drought, with a view to contributing to the achievement of sustainable development in affected areas. Such cooperation shall be conducted bilaterally or multilaterally, as appropriate, making full use of the expertise of intergovernmental and non-governmental organizations. The Parties shall, in particular:

(a) fully utilize relevant existing national, subregional, regional and international information systems and clearing-houses for the dissemination of information on available technologies, their sources, their environmental risks and the broad terms under which they may be acquired;

(b) facilitate access, in particular by affected developing country Parties, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, to technologies most suitable to practical application for specific needs of local populations, paying special attention to the social, cultural, economic and environmental impact of such technology;

(c) facilitate technology cooperation among affected country Parties through financial assistance or other appropriate means;

(d) extend technology cooperation with affected developing country Parties, including, where

relevant, joint ventures, especially to sectors which foster alternative livelihoods; and

(e) take appropriate measures to create domestic market conditions and incentives, fiscal or otherwise, conducive to the development, transfer, acquisition and adaptation of suitable technology, knowledge, know-how and practices, including measures to ensure adequate and effective protection of intellectual property rights.

2. The Parties shall, according to their respective capabilities, and subject to their respective national legislation and/or policies, protect, promote and use in particular relevant traditional and local technology, knowledge, know-how and practices and, to that end, they undertake to:

(a) make inventories of such technology, knowledge, know-how and practices and their potential uses with the participation of local populations, and disseminate such information, where appropriate, in cooperation with relevant intergovernmental and non-governmental organizations;

(b) ensure that such technology, knowledge, know-how and practices are adequately protected and that local populations benefit directly, on an equitable basis and as mutually agreed, from any commercial utilization of them or from any technological development derived therefrom;

(c) encourage and actively support the improvement and dissemination of such technology, knowledge, know-how and practices or of the development of new technology based on them; and

(d) facilitate, as appropriate, the adaptation of such technology, knowledge, know-how and practices to wide use and integrate them with modern technology, as appropriate.

SECTION 3: SUPPORTING MEASURES

Article 19
Capacity building, education and public awareness

1. The Parties recognize the significance of capacity building — that is to say, institution building, training and development of relevant local and national capacities — in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building:

(a) through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the cooperation of non-governmental and local organizations;

(b) by strengthening training and research capacity at the national level in the field of desertification and drought;

(c) by establishing and/or strengthening support and extension services to disseminate relevant technology methods and techniques more effectively, and by training field agents and members of rural organizations in participatory approaches for the conservation and sustainable use of natural resources;

(d) by fostering the use and dissemination of the knowledge, know-how and practices of local people in technical cooperation programmes, wherever possible;

(e) by adapting, where necessary, relevant environmentally sound technology and traditional methods of agriculture and pastoralism to modern socio-economic conditions;

(f) by providing appropriate training and technology in the use of alternative energy sources, particularly renewable energy resources, aimed particularly at reducing dependence on wood for fuel;

(g) through cooperation, as mutually agreed, to strengthen the capacity of affected developing country Parties to develop and implement programmes in the field of collection, analysis and exchange of information pursuant to article 16;

(h) through innovative ways of promoting alternative livelihoods, including training in new skills;

(i) by training of decision makers, managers, and personnel who are responsible for the collection and analysis of data for the dissemination and use of early warning information on drought conditions and for food production;

(j) through more effective operation of existing national institutions and legal frameworks and, where necessary, creation of new ones, along with strengthening of strategic planning and management; and

(k) by means of exchange visitor programmes to enhance capacity building in affected country Parties through a long-term, interactive process of learning and study.

2. Affected developing country Parties shall conduct, in cooperation with other Parties and competent intergovernmental and non-governmental organizations, as appropriate, an interdisciplinary review of available capacity and facilities at the local and national levels, and the potential for strengthening them.

3. The Parties shall cooperate with each other and through competent intergovernmental

organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding of the causes and effects of desertification and drought and of the importance of meeting the objective of this Convention. To that end, they shall:

(a) organize awareness campaigns for the general public;

(b) promote, on a permanent basis, access by the public to relevant information, and wide public participation in education and awareness activities;

(c) encourage the establishment of associations that contribute to public awareness;

(d) develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country Parties in carrying out relevant education and awareness programmes, and fully utilize relevant educational material available in competent international bodies;

(e) assess educational needs in affected areas, elaborate appropriate school curricula and expand, as needed, educational and adult literacy programmes and opportunities for all, in particular for girls and women, on the identification, conservation and sustainable use and management of the natural resources of affected areas; and

(f) develop interdisciplinary participatory programmes integrating desertification and drought awareness into educational systems and in non-formal, adult, distance and practical educational programmes.

4. The Conference of the Parties shall establish and/or strengthen networks of regional education and training centres to combat desertification and mitigate the effects of drought. These networks shall be coordinated by an institution created or designated for that purpose, in order to train scientific, technical and management personnel and to strengthen existing institutions responsible for education and training in affected country Parties, where appropriate, with a view to harmonizing programmes and to organizing exchanges of experience among them. These networks shall cooperate closely with relevant intergovernmental and non-governmental organizations to avoid duplication of effort.

Article 20
Financial resources

1. Given the central importance of financing to the achievement of the objective of the Convention, the Parties, taking into account their capabilities, shall make every effort to ensure that adequate financial resources are available for programmes to combat desertification and mitigate the effects of drought.

2. In this connection, developed country Parties, while giving priority to affected African country Parties without neglecting affected developing country Parties in other regions, in accordance with article 7, undertake to:

(a) mobilize substantial financial resources, including grants and concessional loans, in order to support the implementation of programmes to combat desertification and mitigate the effects of drought;

(b) promote the mobilization of adequate, timely and predictable financial resources, including new and additional funding from the Global Environment Facility of the agreed incremental costs of those activities concerning desertification that relate to its four focal areas, in conformity with the relevant provisions of the Instrument establishing the Global Environment Facility;

(c) facilitate through international cooperation the transfer of technology, knowledge and know-how; and

(d) explore, in cooperation with affected developing country Parties, innovative methods and incentives for mobilizing and channelling resources, including those of foundations, non-governmental organizations and other private sector entities, particularly debt swaps and other innovative means which increase financing by reducing the external debt burden of affected developing country Parties, particularly those in Africa.

3. Affected developing country Parties, taking into account their capabilities, undertake to mobilize adequate financial resources for the implementation of their national action programmes.

4. In mobilizing financial resources, the Parties shall seek full use and continued qualitative improvement of all national, bilateral and multilateral funding sources and mechanisms, using consortia, joint programmes and parallel financing, and shall seek to involve private sector funding sources and mechanisms, including those of non-governmental organizations. To this end, the Parties shall fully utilize the operational mechanisms developed pursuant to article 14.

5. In order to mobilize the financial resources necessary for affected developing country Parties to combat desertification and mitigate the effects of drought, the Parties shall:

(a) rationalize and strengthen the management of resources already allocated for combating desertification and mitigating the effects of drought by using them more effectively and efficiently, assessing their successes and shortcomings, removing hindrances to their effective use and, where necessary, reorienting programmes in light of the integrated long- term approach adopted pursuant to this Convention;

(b) give due priority and attention within the governing bodies of multilateral financial institutions, facilities and funds, including regional development banks and funds, to supporting affected developing country Parties, particularly those in Africa, in activities which advance implementation of the Convention, notably action programmes they undertake in the framework of regional implementation annexes; and

(c) examine ways in which regional and subregional cooperation can be strengthened to support efforts undertaken at the national level.

6. Other Parties are encouraged to provide, on a voluntary basis, knowledge, know-how and techniques related to desertification and/or financial resources to affected developing country Parties.

7. The full implementation by affected developing country Parties, particularly those in Africa, of their obligations under the Convention will be greatly assisted by the fulfilment by developed country Parties of their obligations under the Convention, including in particular those regarding financial resources and transfer of technology. In fulfilling their obligations, developed country Parties should take fully into account that economic and social development and poverty eradication are the first priorities of affected developing country Parties, particularly those in Africa.

Article 21
Financial mechanisms

1. The Conference of the Parties shall promote the availability of financial mechanisms and shall encourage such mechanisms to seek to maximize the availability of funding for affected developing country Parties, particularly those in Africa, to implement the Convention. To this end, the Conference of the Parties shall consider for adoption inter alia approaches and policies that:

(a) facilitate the provision of necessary funding at the national, subregional, regional and global levels for activities pursuant to relevant provisions of the Convention;

(b) promote multiple-source funding approaches, mechanisms and arrangements and their assessment, consistent with article 20;

(c) provide on a regular basis, to interested Parties and relevant intergovernmental and non-governmental organizations, information on available sources of funds and on funding patterns in order to facilitate coordination among them;

(d) facilitate the establishment, as appropriate, of mechanisms, such as national desertification funds, including those involving the participation of non-governmental organizations, to channel financial resources rapidly and efficiently to the local level in affected developing country Parties; and

(e) strengthen existing funds and financial mechanisms at the subregional and regional levels, particularly in Africa, to support more effectively the implementation of the Convention.

2. The Conference of the Parties shall also encourage the provision, through various mechanisms within the United Nations system and through multilateral financial institutions, of support at the national, subregional and regional levels to activities that enable developing country Parties to meet their obligations under the Convention.

3. Affected developing country Parties shall utilize, and where necessary, establish and/or strengthen, national coordinating mechanisms, integrated in national development programmes, that would ensure the efficient use of all available financial resources. They shall also utilize participatory processes involving non-governmental organizations, local groups and the private sector, in raising funds, in elaborating as well as implementing programmes and in assuring access to funding by groups at the local level. These actions can be enhanced by improved coordination and flexible programming on the part of those providing assistance.

4. In order to increase the effectiveness and efficiency of existing financial mechanisms, a Global Mechanism to promote actions leading to the mobilization and channelling of substantial financial resources, including for the transfer of technology, on a grant basis, and/or on concessional or other terms, to affected developing country Parties, is hereby established. This Global Mechanism shall function under the authority and guidance of the Conference of the Parties and be accountable to it.

5. The Conference of the Parties shall identify, at its first ordinary session, an organization to house the Global Mechanism. The Conference of the Parties and the organization it has identified shall agree upon modalities for this Global Mechanism to ensure inter alia that such Mechanism:

(a) identifies and draws up an inventory of relevant

bilateral and multilateral cooperation programmes that are available to implement the Convention;

(b) provides advice, on request, to Parties on innovative methods of financing and sources of financial assistance and on improving the coordination of cooperation activities at the national level;

(c) provides interested Parties and relevant intergovernmental and non-governmental organizations with information on available sources of funds and on funding patterns in order to facilitate coordination among them; and

(d) reports to the Conference of the Parties, beginning at its second ordinary session, on its activities.

6. The Conference of the Parties shall, at its first session, make appropriate arrangements with the organization it has identified to house the Global Mechanism for the administrative operations of such Mechanism, drawing to the extent possible on existing budgetary and human resources.

7. The Conference of the Parties shall, at its third ordinary session, review the policies, operational modalities and activities of the Global Mechanism accountable to it pursuant to paragraph 4, taking into account the provisions of article 7. On the basis of this review, it shall consider and take appropriate action.

PART IV
INSTITUTIONS

Article 22
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The Conference of the Parties is the supreme body of the Convention. It shall make, within its mandate, the decisions necessary to promote its effective implementation. In particular, it shall:

(a) regularly review the implementation of the Convention and the functioning of its institutional arrangements in the light of the experience gained at the national, subregional, regional and international levels and on the basis of the evolution of scientific and technological knowledge;

(b) promote and facilitate the exchange of information on measures adopted by the Parties, and determine the form and timetable for transmitting the information to be submitted pursuant to article 26, review the reports and make recommendations on them;

c) establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;

(d) review reports submitted by its subsidiary bodies and provide guidance to them;

(e) agree upon and adopt, by consensus, rules of procedure and financial rules for itself and any subsidiary bodies;

(f) adopt amendments to the Convention pursuant to articles 30 and 31;

(g) approve a programme and budget for its activities, including those of its subsidiary bodies, and undertake necessary arrangements for their financing;

(h) as appropriate, seek the cooperation of, and utilize the services of and information provided by, competent bodies or agencies, whether national or international, intergovernmental or non-governmental;

(i) promote and strengthen the relationship with other relevant conventions while avoiding duplication of effort; and

(j) exercise such other functions as may be necessary for the achievement of the objective of the Convention.

3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure, by consensus, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.

4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in article 35 and shall take place not later than one year after the date of entry into force of the Convention. Unless otherwise decided by the Conference of the Parties, the second, third and fourth ordinary sessions shall be held yearly, and thereafter, ordinary sessions shall be held every two years.

5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be decided either by the Conference of the Parties in ordinary session or at the written request of any Party, provided that, within three months of the request being communicated to the Parties by the Permanent Secretariat, it is supported by at least one third of the Parties.

6. At each ordinary session, the Conference of the Parties shall elect a Bureau. The structure and functions of the Bureau shall be determined in the rules of procedure. In appointing the Bureau, due

regard shall be paid to the need to ensure equitable geographical distribution and adequate representation of affected country Parties, particularly those in Africa.

7. The United Nations, its specialized agencies and any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the Permanent Secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

8. The Conference of the Parties may request competent national and international organizations which have relevant expertise to provide it with information relevant to article 16, paragraph (g), article 17, paragraph 1 (c) and article 18, paragraph 2(b).

Article 23
Permanent Secretariat

1. A Permanent Secretariat is hereby established.

2. The functions of the Permanent Secretariat shall be:

(a) to make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) to compile and transmit reports submitted to it;

(c) to facilitate assistance to affected developing country Parties, on request, particularly those in Africa, in the compilation and communication of information required under the Convention;

(d) to coordinate its activities with the secretariats of other relevant international bodies and conventions;

(e) to enter, under the guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(f) to prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties; and

(g) to perform such other secretariat functions as may be determined by the Conference of the Parties.

3. The Conference of the Parties, at its first session, shall designate a Permanent Secretariat and make arrangements for its functioning.

Article 24
Committee on Science and Technology

1. A Committee on Science and Technology is hereby established as a subsidiary body of the Conference of the Parties to provide it with information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought. The Committee shall meet in conjunction with the ordinary sessions of the Conference of the Parties and shall be multidisciplinary and open to the participation of all Parties. It shall be composed of government representatives competent in the relevant fields of expertise. The Conference of the Parties shall decide, at its first session, on the terms of reference of the Committee.

2. The Conference of the Parties shall establish and maintain a roster of independent experts with expertise and experience in the relevant fields. The roster shall be based on nominations received in writing from the Parties, taking into account the need for a multidisciplinary approach and broad geographical representation.

3. The Conference of the Parties may, as necessary, appoint ad hoc panels to provide it, through the Committee, with information and advice on specific issues regarding the state of the art in fields of science and technology relevant to combating desertification and mitigating the effects of drought. These panels shall be composed of experts whose names are taken from the roster, taking into account the need for a multidisciplinary approach and broad geographical representation. These experts shall have scientific backgrounds and field experience and shall be appointed by the Conference of the Parties on the recommendation of the Committee. The Conference of the Parties shall decide on the terms of reference and the modalities of work of these panels.

Article 25
Networking of institutions, agencies and bodies

1. The Committee on Science and Technology shall, under the supervision of the Conference of the Parties, make provision for the undertaking of a survey and evaluation of the relevant existing networks, institutions, agencies and bodies willing to become units of a network. Such a network shall support the implementation of the Convention.

2. On the basis of the results of the survey and evaluation referred to in paragraph 1, the Committee on Science and Technology shall make recommendations to the Conference of the Parties

on ways and means to facilitate and strengthen networking of the units at the local, national and other levels, with a view to ensuring that the thematic needs set out in articles 16 to 19 are addressed.

3. Taking into account these recommendations, the Conference of the Parties shall:

(a) identify those national, subregional, regional and international units that are most appropriate for networking, and recommend operational procedures, and a time frame, for them; and

(b) identify the units best suited to facilitating and strengthening such networking at all levels.

PART V
PROCEDURES

Article 26
Communication of information

1. Each Party shall communicate to the Conference of the Parties for consideration at its ordinary sessions, through the Permanent Secretariat, reports on the measures which it has taken for the implementation of the Convention. The Conference of the Parties shall determine the timetable for submission and the format of such reports.

2. Affected country Parties shall provide a description of the strategies established pursuant to article 5 and of any relevant information on their implementation.

3. Affected country Parties which implement action programmes pursuant to articles 9 to 15 shall provide a detailed description of the programmes and of their implementation.

4. Any group of affected country Parties may make a joint communication on measures taken at the subregional and/or regional levels in the framework of action programmes.

5. Developed country Parties shall report on measures taken to assist in the preparation and implementation of action programmes, including information on the financial resources they have provided, or are providing, under the Convention.

6. Information communicated pursuant to paragraphs 1 to 4 shall be transmitted by the Permanent Secretariat as soon as possible to the Conference of the Parties and to any relevant subsidiary body.

7. The Conference of the Parties shall facilitate the provision to affected developing countries, particularly those in Africa, on request, of technical and financial support in compiling and communicating information in accordance with this article, as well as identifying the technical and financial needs associated with action programmes.

Article 27
Measures to resolve questions on implementation

The Conference of the Parties shall consider and adopt procedures and institutional mechanisms for the resolution of questions that may arise with regard to the implementation of the Convention.

Article 28
Settlement of disputes

1. Parties shall settle any dispute between them concerning the interpretation or application of the Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving, or acceding to the Convention, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) arbitration in accordance with procedures adopted by the Conference of the Parties in an annex as soon as practicable;

(b) submission of the dispute to the International Court of Justice.

3. A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).

4. A declaration made pursuant to paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the Parties to the dispute otherwise agree.

6. If the Parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2 and if they have not been able to settle their dispute within twelve months following notification by one Party to another that a dispute exists between them, the dispute shall be submitted to conciliation at the request of any Party to the dispute, in accordance with procedures adopted by the Conference of the Parties in an annex as soon as practicable.

Article 29
Status of annexes

1. Annexes form an integral part of the Convention and, unless expressly provided otherwise, a reference to the Convention also constitutes a reference to its annexes.

2. The Parties shall interpret the provisions of the annexes in a manner that is in conformity with their rights and obligations under the articles of this Convention.

Article 30
Amendments to the Convention

1. Any Party may propose amendments to the Convention.

2. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Permanent Secretariat at least six months before the meeting at which it is proposed for adoption. The Permanent Secretariat shall also communicate proposed amendments to the signatories to the Convention.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the Permanent Secretariat to the Depositary, who shall circulate it to all Parties for their ratification, acceptance, approval or accession.

4. Instruments of ratification, acceptance, approval or accession in respect of an amendment shall be deposited with the Depositary. An amendment adopted pursuant to paragraph 3 shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of ratification, acceptance, approval or accession by at least two thirds of the Parties to the Convention which were Parties at the time of the adoption of the amendment.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of ratification, acceptance or approval of, or accession to the said amendment.

6. For the purposes of this article and article 31, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 31
Adoption and amendment of annexes

1. Any additional annex to the Convention and any amendment to an annex shall be proposed and adopted in accordance with the procedure for amendment of the Convention set forth in article 30, provided that, in adopting an additional regional implementation annex or amendment to any regional implementation annex, the majority provided for in that article shall include a two-thirds majority vote of the Parties of the region concerned present and voting. The adoption or amendment of an annex shall be communicated by the Depositary to all Parties.

2. An annex, other than an additional regional implementation annex, or an amendment to an annex, other than an amendment to any regional implementation annex, that has been adopted in accordance with paragraph 1, shall enter into force for all Parties to the Convention six months after the date of communication by the Depositary to such Parties of the adoption of such annex or amendment, except for those Parties that have notified the Depositary in writing within that period of their non- acceptance of such annex or amendment. Such annex or amendment shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

3. An additional regional implementation annex or amendment to any regional implementation annex that has been adopted in accordance with paragraph 1, shall enter into force for all Parties to the Convention six months after the date of the communication by the Depositary to such Parties of the adoption of such annex or amendment, except with respect to:

(a) any Party that has notified the Depositary in writing, within such six month period, of its non-acceptance of that additional regional implementation annex or of the amendment to the regional implementation annex, in which case such annex or amendment shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary; and

(b) any Party that has made a declaration with respect to additional regional implementation annexes or amendments to regional implementation annexes in accordance with article 34, paragraph 4, in which case any such annex or amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the Depositary of its instrument of ratification, acceptance, approval or accession with respect to such annex or amendment.

4. If the adoption of an annex or an amendment to an annex involves an amendment to the Convention, that annex or amendment to an annex shall not enter into force until such time as the amendment to the Convention enters into force.

Article 32
Right to vote

1. Except as provided for in paragraph 2, each Party to the Convention shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

PART VI
FINAL PROVISIONS

Article 33
Signature

This Convention shall be opened for signature at Paris, on 14-15 October 1994, by States Members of the United Nations or any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations. It shall remain open for signature, thereafter, at the United Nations Headquarters in New York until 13 October 1995.

Article 34
Ratification, acceptance, approval and accession

1. The Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its member States being a Party to the Convention shall be bound by all the obligations under the Convention. Where one or more member States of such an organization are also Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. They shall also promptly inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any additional regional implementation annex or any amendment to any regional implementation annex shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Article 35
Interim arrangements

The secretariat functions referred to in article 23 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 47/188 of 22 December 1992, until the completion of the first session of the Conference of the Parties.

Article 36
Entry into force

1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to the Convention after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 37
Reservations

No reservations may be made to this Convention.

Article 38
Withdrawal

1. At any time after three years from the date on which the Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or

on such later date as may be specified in the notification of withdrawal.

Article 39
Depositary

The Secretary-General of the United Nations shall be the Depositary of the Convention.

Article 40
Authentic texts

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed the present Convention.

DONE AT Paris, this 17th day of June one thousand nine hundred and ninety-four.

ANNEX I
REGIONAL IMPLEMENTATION ANNEX FOR AFRICA

Article 1
Scope

This Annex applies to Africa, in relation to each Party and in conformity with the Convention, in particular its article 7, for the purpose of combating desertification and/or mitigating the effects of drought in its arid, semi-arid and dry sub-humid areas.

Article 2
Purpose

The purpose of this Annex, at the national, subregional and regional levels in Africa and in the light of its particular conditions, is to:

(a) identify measures and arrangements, including the nature and processes of assistance provided by developed country Parties, in accordance with the relevant provisions of the Convention;

(b) provide for the efficient and practical implementation of the Convention to address conditions specific to Africa; and

(c) promote processes and activities relating to combating desertification and/or mitigating the effects of drought within the arid, semi-arid and dry sub-humid areas of Africa.

Article 3
Particular conditions of the African region

In carrying out their obligations under the Convention, the Parties shall, in the implementation of this Annex, adopt a basic approach that takes into consideration the following particular conditions of Africa:

(a) the high proportion of arid, semi-arid and dry sub-humid areas;

(b) the substantial number of countries and populations adversely affected by desertification and by the frequent recurrence of severe drought;

(c) the large number of affected countries that are landlocked;

(d) the widespread poverty prevalent in most affected countries, the large number of least developed countries among them, and their need for significant amounts of external assistance, in the form of grants and loans on concessional terms, to pursue their development objectives;

(e) the difficult socio-economic conditions, exacerbated by deteriorating and fluctuating terms of trade, external indebtedness and political instability, which induce internal, regional and international migrations;

(f) the heavy reliance of populations on natural resources for subsistence which, compounded by the effects of demographic trends and factors, a weak technological base and unsustainable production practices, contributes to serious resource degradation;

(g) the insufficient institutional and legal frameworks, the weak infrastructural base and the insufficient scientific, technical and educational capacity, leading to substantial capacity building requirements; and

(h) the central role of actions to combat desertification and/or mitigate the effects of drought in the national development priorities of affected African countries.

Article 4
Commitments and obligations of African country Parties

1. In accordance with their respective capabilities, African country
Parties undertake to:

(a) adopt the combating of desertification and/or the mitigation of the effects of drought as a central strategy in their efforts to eradicate poverty;

(b) promote regional cooperation and integration, in a spirit of solidarity and partnership based on mutual interest, in programmes and activities to combat desertification and/or mitigate the effects of drought;

(c) rationalize and strengthen existing institutions concerned with desertification and drought and involve other existing institutions, as appropriate, in order to make them more effective and to ensure more efficient use of resources;

(d) promote the exchange of information on appropriate technology, knowledge, know-how and practices between and among them; and

(e) develop contingency plans for mitigating the effects of drought in areas degraded by desertification and/or drought.

2. Pursuant to the general and specific obligations set out in articles 4 and 5 of the Convention, affected African country Parties shall aim to:

(a) make appropriate financial allocations from their national budgets consistent with national conditions and capabilities and reflecting the new priority Africa has accorded to the phenomenon of desertification and/or drought;

(b) sustain and strengthen reforms currently in progress toward greater decentralization and resource tenure as well as reinforce participation of local populations and communities; and

(c) identify and mobilize new and additional national financial resources, and expand, as a matter of priority, existing national capabilities and facilities to mobilize domestic financial resources.

Article 5
Commitments and obligations of developed country Parties

1. In fulfilling their obligations pursuant to articles 4, 6 and 7 of the Convention, developed country Parties shall give priority to affected African country Parties and, in this context, shall:

(a) assist them to combat desertification and/or mitigate the effects of drought by, inter alia, providing and/or facilitating access to financial and/or other resources, and promoting, financing and/or facilitating the financing of the transfer, adaptation and access to appropriate environmental technologies and know-how, as mutually agreed and in accordance with national policies, taking into account their adoption of poverty eradication as a central strategy;

(b) continue to allocate significant resources and/or increase resources to combat desertification and/or mitigate the effects of drought; and

(c) assist them in strengthening capacities to enable them to improve their institutional frameworks, as well as their scientific and technical capabilities, information collection and analysis, and research and development for the purpose of combating desertification and/or mitigating the effects of drought.

2. Other country Parties may provide, on a voluntary basis, technology, knowledge and know-how relating to desertification and/or financial resources, to affected African country Parties. The transfer of such knowledge, know-how and techniques is facilitated by international cooperation.

Article 6
Strategic planning framework for sustainable development

1. National action programmes shall be a central and integral part of a broader process of formulating national policies for the sustainable development of affected African country Parties.

2. A consultative and participatory process involving appropriate levels of government, local populations, communities and non-governmental organizations shall be undertaken to provide guidance on a strategy with flexible planning to allow maximum participation from local populations and communities. As appropriate, bilateral and multilateral assistance agencies may be involved in this process at the request of an affected African country Party.

Article 7
Timetable for preparation of action programmes

Pending entry into force of this Convention, the African country Parties, in cooperation with other members of the international community, as appropriate, shall, to the extent possible, provisionally apply those provisions of the Convention relating to the preparation of national, subregional and regional action programmes.

Article 8
Content of national action programmes

1. Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on integration of strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought. The programmes shall aim at strengthening the capacity of local authorities and ensuring the active involvement of local populations, communities and groups, with emphasis on education and training, mobilization of non-governmental organizations with proven expertise and strengthening of decentralized governmental structures.

2. National action programmes shall, as appropriate, include the following general features:

(a) the use, in developing and implementing national action programmes, of past experiences in combating desertification and/or mitigating the effects of drought, taking into account social, economic and ecological conditions;

(b) the identification of factors contributing to desertification and/or drought and the resources and capacities available and required, and the setting up of appropriate policies and institutional and other responses and measures necessary to combat those phenomena and/or mitigate their effects; and

(c) the increase in participation of local populations and communities, including women, farmers and pastoralists, and delegation to them of more responsibility for management.

3. National action programmes shall also, as appropriate, include the following:

(a) measures to improve the economic environment with a view to eradicating poverty:
Increasing incomes and employment opportunities, especially for the poorest members of the community, by:
- developing markets for farm and livestock products;
- creating financial instruments suited to local needs;
- encouraging diversification in agriculture and the setting-up of agricultural enterprises; and
- developing economic activities of a paraagricultural or non-agricultural type;

(ii) improving the long-term prospects of rural economies by the creation of:
- incentives for productive investment and access to the means of production; and
- price and tax policies and commercial practices that promote growth;

(iii) defining and applying population and migration policies to reduce population pressure on land; and

(iv) promoting the use of drought resistant crops and the application of integrated dry-land farming systems for food security purposes;

(b) measures to conserve natural resources:
(i) ensuring integrated and sustainable management of natural resources, including:
- agricultural land and pastoral land;
- vegetation cover and wildlife;
- forests;
- water resources; and
- biological diversity;

(ii) training with regard to, and strengthening, public awareness and environmental education campaigns and disseminating knowledge of techniques relating to the sustainable management of natural resources; and

(iii) ensuring the development and efficient use of diverse energy sources, the promotion of alternative sources of energy, particularly solar energy, wind energy and biogas, and specific arrangements for the transfer, acquisition and adaptation of relevant technology to alleviate the pressure on fragile natural resources;

(c) measures to improve institutional organization:
(i) defining the roles and responsibilities of central government and local authorities within the framework of a land use planning policy;

(ii) encouraging a policy of active decentralization, devolving responsibility for management and decision-making to local authorities, and encouraging initiatives and the assumption of responsibility by local communities and the establishment of local structures; and

(iii) adjusting, as appropriate, the institutional and regulatory framework of natural resource management to provide security of land tenure for local populations;

(d) measures to improve knowledge of desertification:
(i) promoting research and the collection, processing and exchange of information on the scientific, technical and socio-economic aspects of desertification;

(ii) improving national capabilities in research and in the collection, processing, exchange and analysis of information so as to increase understanding and to translate the results of the analysis into operational terms; and

(iii) encouraging the medium and long term study of:
- socio-economic and cultural trends in affected areas;
- qualitative and quantitative trends in natural resources; and
- the interaction between climate and desertification; and

(e) measures to monitor and assess the effects of drought:
(i) developing strategies to evaluate the impacts of natural climate variability on regional drought and desertification and/or to utilize predictions of climate variability on seasonal to interannual time scales in efforts to mitigate the effects of drought;

(ii) improving early warning and response capacity, efficiently managing emergency relief and food aid, and improving food stocking and distribution systems, cattle protection schemes and public works and alternative livelihoods for drought prone areas; and

(iii) monitoring and assessing ecological degradation to provide reliable and timely information on the process and dynamics of resource degradation in order to facilitate better policy formulations and responses.

Article 9
Preparation of national action programmes and implementation and evaluation indicators

Each affected African country Party shall designate an appropriate national coordinating body to function as a catalyst in the preparation, implementation and evaluation of its national action programme. This coordinating body shall, in the light of article 3 and as appropriate:

(a) undertake an identification and review of actions, beginning with a locally driven consultation process, involving local populations and communities and with the cooperation of local

administrative authorities, developed country Parties and intergovernmental and nongovernmental organizations, on the basis of initial consultations of those concerned at the national level;

(b) identify and analyze the constraints, needs and gaps affecting development and sustainable land use and recommend practical measures to avoid duplication by making full use of relevant ongoing efforts and promote implementation of results;

(c) facilitate, design and formulate project activities based on interactive, flexible approaches in order to ensure active participation of the population in affected areas, to minimize the negative impact of such activities, and to identify and prioritize requirements for financial assistance and technical cooperation;

(d) establish pertinent, quantifiable and readily verifiable indicators to ensure the assessment and evaluation of national action programmes, which encompass actions in the short, medium and long terms, and of the implementation of such programmes; and

(e) prepare progress reports on the implementation of the national action programmes.

Article 10
Organizational framework of subregional action programmes

1. Pursuant to article 4 of the Convention, African country Parties shall cooperate in the preparation and implementation of subregional action programmes for central, eastern, northern, southern and western Africa and, in that regard, may delegate the following responsibilities to relevant subregional intergovernmental organizations:

(a) acting as focal points for preparatory activities and coordinating the implementation of the subregional action programmes;

(b) assisting in the preparation and implementation of national action programmes;

(c) facilitating the exchange of information, experience and know-how as well as providing advice on the review of national legislation; and

(d) any other responsibilities relating to the implementation of subregional action programmes.

2. Specialized subregional institutions may provide support, upon request, and/or be entrusted with the responsibility to coordinate activities in their respective fields of competence.

Article 11
Content and preparation of subregional action programmes

Subregional action programmes shall focus on issues that are better addressed at the subregional level. They shall establish, where necessary, mechanisms for the management of shared natural resources. Such mechanisms shall effectively handle transboundary problems associated with desertification and/or drought and shall provide support for the harmonious implementation of national action programmes. Priority areas for subregional action programmes shall, as appropriate, focus on:

(a) joint programmes for the sustainable management of transboundary natural resources through bilateral and multilateral mechanisms, as appropriate;

(b) coordination of programmes to develop alternative energy sources;

(c) cooperation in the management and control of pests as well as of plant and animal diseases;

(d) capacity building, education and public awareness activities that are better carried out or supported at the subregional level;

(e) scientific and technical cooperation, particularly in the climatological, meteorological and hydrological fields, including networking for data collection and assessment, information sharing and project monitoring, and coordination and prioritization of research and development activities;

(f) early warning systems and joint planning for mitigating the effects of drought, including measures to address the problems resulting from environmentally induced migrations;

(g) exploration of ways of sharing experiences, particularly regarding participation of local populations and communities, and creation of an enabling environment for improved land use management and for use of appropriate technologies;

(h) strengthening of the capacity of subregional organizations to coordinate and provide technical services, as well as establishment, reorientation and strengthening of subregional centres and institutions; and

(i) development of policies in fields, such as trade, which have impact upon affected areas and populations, including policies for the coordination of regional marketing regimes and for common infrastructure.

Article 12
Organizational framework of the regional action programme

1. Pursuant to article 11 of the Convention, African country Parties shall jointly determine the procedures for preparing and implementing the regional action programme.

2. The Parties may provide appropriate support to relevant African regional institutions and organizations to enable them to assist African country Parties to fulfil their responsibilities under the Convention.

Article 13
Content of the regional action programme

The regional action programme includes measures relating to combating desertification and/or mitigating the effects of drought in the following priority areas, as appropriate:

(a) development of regional cooperation and coordination of sub-regional action programmes for building regional consensus on key policy areas, including through regular consultations of sub-regional organizations;

(b) promotion of capacity building in activities which are better implemented at the regional level;

(c) the seeking of solutions with the international community to global economic and social issues that have an impact on affected areas taking into account article 4, paragraph 2 (b) of the Convention;

(d) promotion among the affected country Parties of Africa and its subregions, as well as with other affected regions, of exchange of information and appropriate techniques, technical know-how and relevant experience; promotion of scientific and technological cooperation particularly in the fields of climatology, meteorology, hydrology, water resource development and alternative energy sources; coordination of sub-regional and regional research activities; and identification of regional priorities for research and development;

(e) coordination of networks for systematic observation and assessment and information exchange, as well as their integration into world wide networks; and

(f) coordination of and reinforcement of sub-regional and regional early warning systems and drought contingency plans.

Article 14
Financial resources

1. Pursuant to article 20 of the Convention and article 4, paragraph 2, affected African country Parties shall endeavour to provide a macroeconomic framework conducive to the mobilization of financial resources and shall develop policies and establish procedures to channel resources more effectively to local development programmes, including through non-governmental organizations, as appropriate.

2. Pursuant to article 21, paragraphs 4 and 5 of the Convention, the Parties agree to establish an inventory of sources of funding at the national, subregional, regional and international levels to ensure the rational use of existing resources and to identify gaps in resource allocation, to facilitate implementation of the action programmes. The inventory shall be regularly reviewed and updated.

3. Consistent with article 7 of the Convention, the developed country Parties shall continue to allocate significant resources and/or increased resources as well as other forms of assistance to affected African country Parties on the basis of partnership agreements and arrangements referred to in article 18, giving, inter alia, due attention to matters related to debt, international trade and marketing arrangements in accordance with article 4, paragraph 2 (b) of the Convention.

Article 15
Financial Mechanisms

1. Consistent with article 7 of the Convention underscoring the priority to affected African country Parties and considering the particular situation prevailing in this region, the Parties shall pay special attention to the implementation in Africa of the provisions of article 21, paragraph 1 (d) and (e) of the Convention, notably by:

(a) facilitating the establishment of mechanisms, such as national desertification funds, to channel financial resources to the local level; and

(b) strengthening existing funds and financial mechanisms at the subregional and regional levels.

2. Consistent with articles 20 and 21 of the Convention, the Parties which are also members of the governing bodies of relevant regional and subregional financial institutions, including the African Development Bank and the African Development Fund, shall promote efforts to give due priority and attention to the activities of those institutions that advance the implementation of this Annex.

3. The Parties shall streamline, to the extent possible, procedures for channelling funds to affected African country Parties.

Article 16
Technical assistance and cooperation

The Parties undertake, in accordance with their respective capabilities, to rationalize technical assistance to, and cooperation with, African country Parties with a view to increasing project and programme effectiveness by, inter alia:

(a) limiting the costs of support measures and

backstopping, especially overhead costs; in any case, such costs shall only represent an appropriately low percentage of the total cost of the project so as to maximize project efficiency;

(b) giving preference to the utilization of competent national experts or, where necessary, competent experts from within the subregion and/or region, in project design, preparation and implementation, and to the building of local expertise where it does not exist; and

(c) effectively managing and coordinating, as well as efficiently utilizing, technical assistance to be provided.

Article 17
Transfer, acquisition, adaptation and access to environmentally sound technology

In implementing article 18 of the Convention relating to transfer, acquisition, adaptation and development of technology, the Parties undertake to give priority to African country Parties and, as necessary, to develop with them new models of partnership and cooperation with a view to strengthening capacity building in the fields of scientific research and development and information collection and dissemination to enable them to implement their strategies to combat desertification and mitigate the effects of drought.

Article 18
Coordination and partnership agreements

1. African country Parties shall coordinate the preparation, negotiation and implementation of national, subregional and regional action programmes. They may involve, as appropriate, other Parties and relevant intergovernmental and non-governmental organizations in this process.

2. The objectives of such coordination shall be to ensure that financial and technical cooperation is consistent with the Convention and to provide the necessary continuity in the use and administration of resources.

3. African country Parties shall organize consultative processes at the national, subregional and regional levels. These consultative processes may:

(a) serve as a forum to negotiate and conclude partnership agreements based on national, subregional and regional action programmes; and

(b) specify the contribution of African country Parties and other members of the consultative groups to the programmes and identify priorities and agreements on implementation and evaluation indicators, as well as funding arrangements for implementation.

4. The Permanent Secretariat may, at the request of African country Parties, pursuant to article 23 of the Convention, facilitate the convocation of such consultative processes by:

(a) providing advice on the organization of effective consultative arrangements, drawing on experiences from other such arrangements;

(b) providing information to relevant bilateral and multilateral agencies concerning consultative meetings or processes, and encouraging their active involvement; and

(c) providing other information that may be relevant in establishing or improving consultative arrangements.

5. The subregional and regional coordinating bodies shall, inter alia:

(a) recommend appropriate adjustments to partnership agreements;

(b) monitor, assess and report on the implementation of the agreed subregional and regional programmes; and

(c) aim to ensure efficient communication and cooperation among African country Parties.

6. Participation in the consultative groups shall, as appropriate, be open to Governments, interested groups and donors, relevant organs, funds and programmes of the United Nations system, relevant subregional and regional organizations, and representatives of relevant non-governmental organizations. Participants of each consultative group shall determine the modalities of its management and operation.

7. Pursuant to article 14 of the Convention, developed country Parties are encouraged to develop, on their own initiative, an informal process of consultation and coordination among themselves, at the national, subregional and regional levels, and, at the request of an affected African country Party or of an appropriate subregional or regional organization, to participate in a national, subregional or regional consultative process that would evaluate and respond to assistance needs in order to facilitate implementation.

Article 19
Follow-up arrangements

Follow-up of this Annex shall be carried out by African country Parties in accordance with the Convention as follows:

(a) at the national level, by a mechanism the composition of which should be determined by each affected African country Party and which shall include representatives of local communities and shall function under the supervision of the national coordinating body referred to in article 9;

(b) at the subregional level, by a multidisciplinary scientific and technical consultative committee, the composition and modalities of operation of which shall be determined by the African country Parties of the subregion concerned; and

(c) at the regional level, by mechanisms defined in accordance with the relevant provisions of the Treaty establishing the African Economic Community, and by an African Scientific and Technical Advisory Committee.

ANNEX II
REGIONAL IMPLEMENTATION ANNEX FOR ASIA

Article 1
Purpose

The purpose of this Annex is to provide guidelines and arrangements for the effective implementation of the Convention in the affected country Parties of the Asian region in the light of its particular conditions.

Article 2
Particular conditions of the Asian region

In carrying out their obligations under the Convention, the Parties shall, as appropriate, take into consideration the following particular conditions which apply in varying degrees to the affected country Parties of the region:

(a) the high proportion of areas in their territories affected by, or vulnerable to, desertification and drought and the broad diversity of these areas with regard to climate, topography, land use and socioeconomic systems;

(b) the heavy pressure on natural resources for livelihoods;

(c) the existence of production systems, directly related to widespread poverty, leading to land degradation and to pressure on scarce water resources;

(d) the significant impact of conditions in the world economy and social problems such as poverty, poor health and nutrition, lack of food security, migration, displaced persons and demographic dynamics;

(e) their expanding, but still insufficient, capacity and institutional frameworks to deal with national desertification and drought problems; and

(f) their need for international cooperation to pursue sustainable development objectives relating to combating desertification and mitigating the effects of drought.

Article 3
Framework for national action programmes

1. National action programmes shall be an integral part of broader national policies for sustainable development of the affected country Parties of the region.

2. The affected country Parties shall, as appropriate, develop national action programmes pursuant to articles 9 to 11 of the Convention, paying special attention to article 10, paragraph 2 (f). As appropriate, bilateral and multilateral cooperation agencies may be involved in this process at the request of the affected country Party concerned.

Article 4
National action programmes

1. In preparing and implementing national action programmes, the affected country Parties of the region, consistent with their respective circumstances and policies, may, inter alia, as appropriate:

(a) designate appropriate bodies responsible for the preparation, coordination and implementation of their action programmes;

(b) involve affected populations, including local communities, in the elaboration, coordination and implementation of their action programmes through a locally driven consultative process, with the cooperation of local authorities and relevant national and nongovernmental organizations;

(c) survey the state of the environment in affected areas to assess the causes and consequences of desertification and to determine priority areas for action;

(d) evaluate, with the participation of affected populations, past and current programmes for combating desertification and mitigating the effects of drought, in order to design a strategy and elaborate activities in their action programmes;

(e) prepare technical and financial programmes based on the information derived from the activities in subparagraphs (a) to (d);

(f) develop and utilize procedures and benchmarks for evaluating implementation of their action programmes;

(g) promote the integrated management of drainage basins, the conservation of soil resources, and the enhancement and efficient use of water resources;

(h) strengthen and/or establish information, evaluation and follow up and early warning systems in regions prone to desertification and drought, taking account of climatological, meteorological, hydrological, biological and other relevant factors; and

(i) formulate in a spirit of partnership, where international cooperation, including financial and technical resources, is involved, appropriate arrangements supporting their action programmes.

2. Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on the integration of strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought. Sectoral measures in the action programmes shall be grouped in priority fields which take account of the broad diversity of affected areas in the region referred to in article 2 (a).

Article 5
Subregional and joint action programmes

1. Pursuant to article 11 of the Convention, affected country Parties in Asia may mutually agree to consult and cooperate with other Parties, as appropriate, to prepare and implement subregional or joint action programmes, as appropriate, in order to complement, and increase effectiveness in the implementation of, national action programmes. In either case, the relevant Parties may jointly agree to entrust subregional, including bilateral or national organizations, or specialized institutions, with responsibilities relating to the preparation, coordination and implementation of programmes. Such organizations or institutions may also act as focal points for the promotion and coordination of actions pursuant to articles 16 to 18 of the Convention.

2. In preparing and implementing subregional or joint action programmes, the affected country Parties of the region shall, inter alia, as appropriate:

(a) identify, in cooperation with national institutions, priorities relating to combating desertification and mitigating the effects of drought which can better be met by such programmes, as well as relevant activities which could be effectively carried out through them;

(b) evaluate the operational capacities and activities of relevant regional, subregional and national institutions;

(c) assess existing programmes relating to desertification and drought among all or some parties of the region or subregion and their relationship with national action programmes; and

(d) formulate in a spirit of partnership, where international cooperation, including financial and technical resources, is involved, appropriate bilateral and/or multilateral arrangements supporting the programmes.

3. Subregional or joint action programmes may include agreed joint programmes for the sustainable management of transboundary natural resources relating to desertification, priorities for coordination and other activities in the fields of capacity building, scientific and technical cooperation, particularly drought early warning systems and information sharing, and means of strengthening the relevant subregional and other organizations or institutions.

Article 6
Regional activities

Regional activities for the enhancement of subregional or joint action programmes may include, inter alia, measures to strengthen institutions and mechanisms for coordination and cooperation at the national, subregional and regional levels, and to promote the implementation of articles 16 to 19 of the Convention. These activities may also include:

(a) promoting and strengthening technical cooperation networks;

(b) preparing inventories of technologies, knowledge, know-how and practices, as well as traditional and local technologies and know-how, and promoting their dissemination and use;

(c) evaluating the requirements for technology transfer and promoting the adaptation and use of such technologies; and

(d) encouraging public awareness programmes and promoting capacity building at all levels, strengthening training, research and development and building systems for human resource development.

Article 7
Financial resources and mechanisms

1. The Parties shall, in view of the importance of combating desertification and mitigating the effects of drought in the Asian region, promote the mobilization of substantial financial resources and the availability of financial mechanisms, pursuant to articles 20 and 21 of the Convention.

2. In conformity with the Convention and on the basis of the coordinating mechanism provided for in article 8 and in accordance with their national development policies, affected country Parties of the region shall, individually or jointly:

(a) adopt measures to rationalize and strengthen mechanisms to supply funds through public and private investment with a view to achieving specific results in action to combat desertification and mitigate the effects of drought;

(b) identify international cooperation requirements in support of national efforts, particularly financial, technical and technological; and

(c) promote the participation of bilateral and/or multilateral financial cooperation institutions with

a view to ensuring implementation of the Convention.

3. The Parties shall streamline, to the extent possible, procedures for channelling funds to affected country Parties in the region.

Article 8
Cooperation and coordination mechanisms

1. Affected country Parties, through the appropriate bodies designated pursuant to article 4, paragraph 1 (a), and other Parties in the region, may, as appropriate, set up a mechanism for, inter alia, the following purposes:

(a) exchange of information, experience, knowledge and know-how;

(b) cooperation and coordination of actions, including bilateral and multilateral arrangements, at the subregional and regional levels;

(c) promotion of scientific, technical, technological and financial cooperation pursuant to articles 5 to 7;

(d) identification of external cooperation requirements; and

(e) follow-up and evaluation of the implementation of action programmes.

2. Affected country Parties, through the appropriate bodies designated pursuant to article 4, paragraph 1 (a), and other Parties in the region, may also, as appropriate, consult and coordinate as regards the national, subregional and joint action programmes. They may involve, as appropriate, other Parties and relevant intergovernmental and non-governmental organizations in this process. Such coordination shall, inter alia, seek to secure agreement on opportunities for international cooperation in accordance with articles 20 and 21 of the Convention, enhance technical cooperation and channel resources so that they are used effectively.

3. Affected country Parties of the region shall hold periodic coordination meetings, and the Permanent Secretariat may, at their request, pursuant to article 23 of the Convention, facilitate the convocation of such coordination meetings by:

(a) providing advice on the organization of effective coordination arrangements, drawing on experience from other such arrangements;

(b) providing information to relevant bilateral and multilateral agencies concerning coordination meetings, and encouraging their active involvement; and

(c) providing other information that may be relevant in establishing or improving coordination processes.

ANNEX III
REGIONAL IMPLEMENTATION ANNEX FOR LATIN AMERICA AND THE CARIBBEAN

Article 1
Purpose

The purpose of this Annex is to provide general guidelines for the implementation of the Convention in the Latin American and Caribbean region, in light of its particular conditions.

Article 2
Particular conditions of the Latin American and Caribbean region

The Parties shall, in accordance with the provisions of the Convention, take into consideration the following particular conditions of the region:

(a) the existence of broad expanses which are vulnerable and have been severely affected by desertification and/or drought and in which diverse characteristics may be observed, depending on the area in which they occur; this cumulative and intensifying process has negative social, cultural, economic and environmental effects which are all the more serious in that the region contains one of the largest resources of biological diversity in the world;

(b) the frequent use of unsustainable development practices in affected areas as a result of complex interactions among physical, biological, political, social, cultural and economic factors, including international economic factors such as external indebtedness, deteriorating terms of trade and trade practices which affect markets for agricultural, fishery and forestry products; and

(c) a sharp drop in the productivity of ecosystems being the main consequence of desertification and drought, taking the form of a decline in agricultural, livestock and forestry yields and a loss of biological diversity; from the social point of view, the results are impoverishment, migration, internal population movements, and the deterioration of the quality of life; the region will therefore have to adopt an integrated approach to problems of desertification and drought by promoting sustainable development models that are in keeping with the environmental, economic and social situation in each country.

Article 3
Action programmes

1. In conformity with the Convention, in particular its articles 9 to 11, and in accordance with their national development policies, affected country Parties of the region shall, as appropriate, prepare and implement national action programmes to combat desertification and mitigate the effects of drought as an integral part of their national policies for sustainable development. Subregional and regional programmes may be

prepared and implemented in accordance with the requirements of the region.

2. In the preparation of their national action programmes, affected country Parties of the region shall pay particular attention to article 10, paragraph 2 (f) of the Convention.

Article 4
Content of national action programmes

In the light of their respective situations, the affected country Parties of the region may take account, inter alia, of the following thematic issues in developing their national strategies for action to combat desertification and/or mitigate the effects of drought, pursuant to article 5 of the Convention:

(a) increasing capacities, education and public awareness, technical, scientific and technological cooperation and financial resources and mechanisms;

(b) eradicating poverty and improving the quality of human life;

(c) achieving food security and sustainable development and management of agricultural, livestock-rearing, forestry and multipurpose activities;

(d) sustainable management of natural resources, especially the rational management of drainage basins;

(e) sustainable management of natural resources in high-altitude areas;

(f) rational management and conservation of soil resources and exploitation and efficient use of water resources;

(g) formulation and application of emergency plans to mitigate the effects of drought;

(h) strengthening and/or establishing information, evaluation and follow-up and early warning systems in areas prone to desertification and drought, taking account of climatological, meteorological, hydrological, biological, soil, economic and social factors;

(i) developing, managing and efficiently using diverse sources of energy, including the promotion of alternative sources;

(j) conservation and sustainable use of biodiversity in accordance with the provisions of the Convention on Biological Diversity;

(k) consideration of demographic aspects related to desertification and drought; and

(l) establishing or strengthening institutional and legal frameworks permitting application of the Convention and aimed, inter alia, at decentralizing administrative structures and functions relating to desertification and drought, with the participation of affected communities and society in general.

Article 5
Technical, scientific and technological cooperation

In conformity with the Convention, in particular its articles 16 to 18, and on the basis of the coordinating mechanism provided for in article 7, affected country Parties of the region shall, individually or jointly:

(a) promote the strengthening of technical cooperation networks and national, subregional and regional information systems, as well as their integration, as appropriate, in worldwide sources of information;

(b) prepare an inventory of available technologies and know-how and promote their dissemination and use;

(c) promote the use of traditional technology, knowledge, know-how and practices pursuant to article 18, paragraph 2 (b), of the Convention;

(d) identify transfer of technology requirements; and

(e) promote the development, adaptation, adoption and transfer of relevant existing and new environmentally sound technologies.

Article 6
Financial resources and mechanisms

In conformity with the Convention, in particular its articles 20 and 21, on the basis of the coordinating mechanism provided for in article 7 and in accordance with their national development policies, affected country Parties of the region shall, individually or jointly:

(a) adopt measures to rationalize and strengthen mechanisms to supply funds through public and private investment with a view to achieving specific results in action to combat desertification and mitigate the effects of drought;

(b) identify international cooperation requirements in support of national efforts; and

(c) promote the participation of bilateral and/or multilateral financial cooperation institutions with a view to ensuring implementation of the Convention.

Article 7
Institutional framework

1. In order to give effect to this Annex, affected country Parties of the region shall:

(a) establish and/or strengthen national focal points to coordinate action to combat desertification and/or mitigate the effects of drought; and

(b) set up a mechanism to coordinate the national focal points for the following purposes:
(i) exchanges of information and experience;
(ii) coordination of activities at the subregional and regional levels;
(iii) promotion of technical, scientific, technological and financial cooperation;
(iv) identification of external cooperation requirements; and follow-up and evaluation of the implementation of action programmes.

2. Affected country Parties of the region shall hold periodic coordination meetings and the Permanent Secretariat may, at their request, pursuant to article 23 of the Convention, facilitate the convocation of such coordination meetings, by:

(a) providing advice on the organization of effective coordination arrangements, drawing on experience from other such arrangements;

(b) providing information to relevant bilateral and multilateral agencies concerning coordination meetings, and encouraging their active involvement; and

(c) providing other information that may be relevant in establishing or improving coordination processes.

ANNEX IV
REGIONAL IMPLEMENTATION ANNEX FOR THE NORTHERN MEDITERRANEAN

Article 1
Purpose

The purpose of this Annex is to provide guidelines and arrangements necessary for the effective implementation of the Convention in affected country Parties of the northern Mediterranean region in the light of its particular conditions.

Article 2
Particular conditions of the northern Mediterranean region

The particular conditions of the northern Mediterranean region referred to in article 1 include:

(a) semi-arid climatic conditions affecting large areas, seasonal droughts, very high rainfall variability and sudden and high-intensity rainfall;

(b) poor and highly erodible soils, prone to develop surface crusts;

(c) uneven relief with steep slopes and very diversified landscapes;

(d) extensive forest coverage losses due to frequent wildfires;

(e) crisis conditions in traditional agriculture with associated land abandonment and deterioration of soil and water conservation structures;

(f) unsustainable exploitation of water resources leading to serious environmental damage, including chemical pollution, salinization and exhaustion of aquifers; and

(g) concentration of economic activity in coastal areas as a result of urban growth, industrial activities, tourism and irrigated agriculture.

Article 3
Strategic planning framework for sustainable development

1. National action programmes shall be a central and integral part of the strategic planning framework for sustainable development of the affected country Parties of the northern Mediterranean.

2. A consultative and participatory process, involving appropriate levels of government, local communities and non-governmental organizations, shall be undertaken to provide guidance on a strategy with flexible planning to allow maximum local participation, pursuant to article 10, paragraph 2 (f) of the Convention.

Article 4
Obligation to prepare national action programmes and timetable

Affected country Parties of the northern Mediterranean region shall prepare national action programmes and, as appropriate, subregional, regional or joint action programmes. The preparation of such programmes shall be finalized as soon as practicable.

Article 5
Preparation and implementation of national action programmes

In preparing and implementing national action programmes pursuant to articles 9 and 10 of the Convention, each affected country Party of the region shall, as appropriate:

(a) designate appropriate bodies responsible for the preparation, coordination and implementation of its programme;

(b) involve affected populations, including local communities, in the elaboration, coordination and implementation of the programme through a locally driven consultative process, with the cooperation of local authorities and relevant non-governmental organizations;

(c) survey the state of the environment in affected areas to assess the causes and consequences of desertification and to determine priority areas for action;

(d) evaluate, with the participation of affected populations, past and current programmes in order to design a strategy and elaborate activities in the action programme;

(e) prepare technical and financial programmes based on the information gained through the activities in subparagraphs (a) to (d); and

(f) develop and utilize procedures and benchmarks for monitoring and evaluating the implementation of the programme.

Article 6
Content of national action programmes

Affected country Parties of the region may include, in their national action programmes, measures relating to:

(a) legislative, institutional and administrative areas;

(b) land use patterns, management of water resources, soil conservation, forestry, agricultural activities and pasture and range management;

(c) management and conservation of wildlife and other forms of biological diversity;

(d) protection against forest fires;

(e) promotion of alternative livelihoods; and

(f) research, training and public awareness.

Article 7
Subregional, regional and joint action programmes

1. Affected country Parties of the region may, in accordance with article 11 of the Convention, prepare and implement subregional and/or regional action programmes in order to complement and increase the efficiency of national action programmes. Two or more affected country Parties of the region, may similarly agree to prepare a joint action programme between or among them.

2. The provisions of articles 5 and 6 shall apply mutatis mutandis to the preparation and implementation of subregional, regional and joint action programmes. In addition, such programmes may include the conduct of research and development activities concerning selected ecosystems in affected areas.

3. In preparing and implementing subregional, regional or joint action programmes, affected country Parties of the region shall, as appropriate:

(a) identify, in cooperation with national institutions, national objectives relating to desertification which can better be met by such programmes and relevant activities which could be effectively carried out through them;

(b) evaluate the operational capacities and activities of relevant regional, subregional and national institutions; and

(c) assess existing programmes relating to desertification among Parties of the region and their relationship with national action programmes.

Article 8
Coordination of subregional, regional and joint action programmes

Affected country Parties preparing a subregional, regional or joint action programme may establish a coordination committee composed of representatives of each affected country Party concerned to review progress in combating desertification, harmonize national action programmes, make recommendations at the various stages of preparation and implementation of the subregional, regional or joint action programme, and act as a focal point for the promotion and coordination of technical cooperation pursuant to articles 16 to 19 of the Convention.

Article 9
Non-eligibility for financial assistance

In implementing national, subregional, regional and joint action programmes, affected developed country Parties of the region are not eligible to receive financial assistance under this Convention.

Article 10
Coordination with other subregions and regions

Subregional, regional and joint action programmes in the northern Mediterranean region may be prepared and implemented in collaboration with those of other subregions or regions, particularly with those of the subregion of northern Africa.

Annex V
REGIONAL IMPLEMENTATION ANNEX FOR CENTRAL AND EASTERN EUROPE

Article 1
PURPOSE

The purpose of this Annex is to provide guidelines and arrangements for the effective implementation of the Convention in affected country Parties of the Central and Eastern European region, in the light of its particular conditions.

Article 2
PARTICULAR CONDITIONS OF THE CENTRAL AND EASTERN EUROPEAN REGION

The particular conditions of the Central and Eastern European region referred to in article 1, which apply in varying degrees to the affected country Parties of the region, include:

(a) specific problems and challenges related to the current process of economic transition, including macroeconomic and financial problems and the need for strengthening the social and political framework for economic and market reforms;

(b) the variety of forms of land degradation in the different ecosystems of the region, including the

effects of drought and the risks of desertification in regions prone to soil erosion caused by water and wind;

(c) crisis conditions in agriculture due, *inter alia,* to depletion of arable land, problems related to inappropriate irrigation systems and gradual deterioration of soil and water conservation structures;

(d) unsustainable exploitation of water resources leading to serious environmental damage, including chemical pollution, salinisation and exhaustion of aquifers;

(e) forest coverage losses due to climatic factors, consequences of air pollution and frequent wildfires;

(f) the use of unsustainable development practices in affected areas as a result of complex interactions among physical, biological, political, social and economic factors;

(g) the risks of growing economic hardships and deteriorating social conditions in areas affected by land degradation, desertification and drought;

(h) the need to review research objectives and the policy and legislative framework for the sustainable management of natural resources; and

(i) the opening up of the region to wider international cooperation and the pursuit of broad objectives of sustainable development.

Article 3
ACTION PROGRAMMES

1. National action programmes shall be an integral part of the policy framework for sustainable development and address in an appropriate manner the various forms of land degradation, desertification and drought affecting the Parties of the region.

2. A consultative and participatory process, involving appropriate levels of government, local communities and non-governmental organizations, shall be undertaken to provide guidance on a strategy with flexible planning to allow maximum local participation, pursuant to article 10, paragraph 2(f), of the Convention. As appropriate, bilateral and multilateral cooperation agencies may be involved in this process at the request of the affected country Party concerned.

Article 4
PREPARATION AND IMPLEMENTATION OF NATIONAL ACTION PROGRAMMES

In preparing and implementing national action programmes pursuant to articles 9 and 10 of the Convention, each affected country Party of the region shall, as appropriate:

(a) designate appropriate bodies responsible for the preparation, coordination and implementation of its programme;

(b) involve affected populations, including local communities, in the elaboration, coordination and implementation of the programme through a locally driven consultative process, with the cooperation of local authorities and relevant non-governmental organizations;

(c) survey the state of the environment in affected areas to assess the causes and consequences of desertification and to determine priority areas for action;

(d) evaluate, with the participation of affected populations, past and current programmes in order to design a strategy and elaborate actions in the action programme;

(e) prepare technical and financial programmes based on the information gained through the activities in subparagraphs (a) to (d); and

(f) develop and utilize procedures and benchmarks for monitoring and evaluating the implementation of the programme.

Article 5
SUBREGIONAL, REGIONAL AND JOINT ACTION PROGRAMMES

1. Affected country Parties of the region, in accordance with articles 11 and 12 of the Convention, may prepare and implement subregional and/or regional action programmes in order to complement and increase the effectiveness and efficiency of national action programmes. Two or more affected country Parties of the region may similarly agree to prepare a joint action programme between or among them.

2. Such programmes may be prepared and implemented in collaboration with other Parties or regions. The objective of such collaboration would be to secure an enabling international environment and to facilitate financial and/or technical support or other forms of assistance to address more effectively desertification and drought issues at different levels.

3. The provisions of articles 3 and 4 shall apply, *mutatis mutandis*, to the preparation and implementation of subregional, regional and joint action programmes. In addition, such programmes may include the conduct of research and development activities concerning selected ecosystems in affected areas.

4. In preparing and implementing subregional, regional or joint action programmes, affected country Parties of the region shall, as appropriate:

(a) identify, in cooperation with national institutions, national objectives relating to desertification

which can better be met by such programmes, and relevant activities, which could be effectively carried out through them;

(b) evaluate the operational capacities and activities of relevant regional, subregional and national institutions;

(c) assess existing programmes relating to desertification among Parties of the region and their relationship with national action programmes; and

(d) consider action for the coordination of subregional, regional and joint action programmes, including, as appropriate, the establishment of coordination committees composed of representatives of each affected country Party concerned to review progress in combating desertification, harmonize national action programmes, make recommendations at the various stages of preparation and implementation of the subregional, regional or joint action programmes, and act as focal points for the promotion and coordination of technical cooperation pursuant to articles 16 to 19 of the Convention.

Article 6
TECHNICAL, SCIENTIFIC AND TECHNOLOGICAL COOPERATION

In conformity with the objective and principles of the Convention, Parties of the region shall, individually or jointly:

(a) promote the strengthening of scientific and technical cooperation networks, of monitoring indicators and of information systems at all levels, as well as their integration, as appropriate, in worldwide systems of information; and

(b) promote the development, adaptation and transfer of relevant existing and new environmentally sound technologies within and outside the region.

Article 7
FINANCIAL RESOURCES AND MECHANISMS

In conformity with the objective and principles of the Convention, affected country Parties of the region shall, individually or jointly:

(a) adopt measures to rationalize and strengthen mechanisms to supply funds through public and private investment with a view to achieving concrete results in action to combat land degradation and desertification and mitigate the effects of drought;

(b) identify international cooperation requirements in support of national efforts, thereby creating, in particular, an enabling environment for investments and encouraging active investment policies and an integrated approach to effectively combating desertification, including early identification of the problems caused by this process;

(c) seek the participation of bilateral and/or multilateral partners and financial cooperation institutions with a view to ensuring implementation of the Convention, including programme activities which take into account the specific needs of affected country Parties of the region; and

(d) assess the possible impact of article 2(a) on the implementation of articles 6, 13 and 20 and other related provisions of the Convention.

Article 8
INSTITUTIONAL FRAMEWORK

1. In order to give effect to this Annex, Parties of the region shall:

(a) establish and/or strengthen national focal points to coordinate action to combat desertification and/or mitigate the effects of drought; and consider mechanisms to strengthen regional cooperation, as appropriate.

2. The Permanent Secretariat may, at the request of Parties of the region and pursuant to article 23 of the Convention, facilitate the convocation of coordination meetings in the region by:

(a) providing advice on the organization of effective coordination arrangements, drawing on experience from other such arrangements; and

(b) providing other information that may be relevant in establishing or improving coordination processes.

39. AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Use of terms and scope

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2.(a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:
(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and
(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2
Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3
Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4
Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II
CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5
General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;

(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6
Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In implementing the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7
Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

(f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III
MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8
Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal

States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9
Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10
Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11
New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12
Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the oganization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13
Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14
Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve

measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15
Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16
Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV
NON-MEMBERS AND NON-PARTICIPANTS

Article 17
Non-members of organizatons and non-participants in arrangements

A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V
DUTIES OF THE FLAG STATE

Article 18
Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:
  (i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;
  (ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;
  (iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and
  (iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:
  (i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;
  (ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and
  (iii) The development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI
COMPLIANCE AND ENFORCEMENT

Article 19
Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20
International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.

4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.

5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.

6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21
Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established

by that organization or arrangement.

2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.

4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22
Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

(a) accept and facilitate prompt and safe boarding by the inspectors;

(b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;

(c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;

(d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;

(e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and

(f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23
Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART VII
REQUIREMENTS OF DEVELOPING STATES

Article 24
Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25
Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26
Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII
PEACEFUL SETTLEMENT OF DISPUTES

Article 27
Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28
Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29
Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30
Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31
Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32
Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX
NON-PARTIES TO THIS AGREEMENT

Article 33
Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X
GOOD FAITH AND ABUSE OF RIGHTS

Article 34
Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI
RESPONSIBILITY AND LIABILITY

Article 35
Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII
REVIEW CONFERENCE

Article 36
Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII
FINAL PROVISIONS

Article 37
Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38
Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39
Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40
Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41
Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42
Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43
Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44
Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45
Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties.
If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.
6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:
(a) be considered as a Party to this Agreement as so amended; and

(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47
Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and

(b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

(a) at the time of signature or accession, such international organization shall make a declaration stating:
  (i) that it has competence over all the matters governed by this Agreement;
  (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and
  (iii) that it accepts the rights and obligations of States under this Agreement;

(b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;

(c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48
Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49
Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX I
STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1
General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and

managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2
Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3
Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4
Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5
Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6
Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

(a) position verification through vessel monitoring systems;

(b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and

(d) port sampling.

Article 7
Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

ANNEX II
GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.

2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.

3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.

5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.

6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.

7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.

40. CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

The Parties to the present Convention,

Conscious of the importance of international watercourses and the non-navigational uses thereof in many regions of the world,

Having in mind Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Considering that successful codification and progressive development of rules of international law regarding non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Taking into account the problems affecting many international watercourses resulting from, among other things, increasing demands and pollution,

Expressing the conviction that a framework convention will ensure the utilization, development, conservation, management and protection of international water courses and the promotion of the optimal and sustainable utilization thereof for present and future generations,

Affirming the importance of international cooperation and good-neighbourliness in this field,

Aware of the special situation and needs of developing countries, Recalling the principles and recommendations adopted by the United Nations Conference on Environment and Development of 1992 in the Rio Declaration and Agenda 21,

Recalling also the existing bilateral and multilateralagreements regarding the non - navigational uses of international watercourses,

Mindful of the valuable contribution of international organizations, both governmental and non-governmental, to the codification and progressive development of international law in this field,

Appreciative of the work carried out by the International Law Commission on the law of the non-navigational uses of international watercourses,

Bearing in mind United Nations General Assembly resolution 49/52 of 9 December 1994,

Have agreed as follows:

PART I
INTRODUCTION

Article 1
Scope of the present Convention

1. The present Convention applies to uses of international watercourses and of their waters for purposes other than navigation and to measures of protection, preservation and management related to the uses of those watercourses and their waters.

2. The uses of international watercourses for navigation is not within the scope of the present Convention except insofar as other uses affect navigation or are affected by navigation.

Article 2
Use of terms

For the purposes of the present Convention:

(a) "Watercourse" means a system of surface waters and ground waters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus;

(b) "International watercourse" means a watercourse, parts of which are situated in different States;

(c) "Watercourse State" means a State Party to the present Convention in whose territory part of an international watercourse is situated, or a Party that is a regional economic integration organization, in the territory of one or more of whose Member States part of an international watercourse is situated;

(d) "Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

Article 3
Watercourse agreements

1. In the absence of an agreement to the contrary, nothing in the present Convention shall affect the rights or obligations of a watercourse State arising from agreements in force for it on the date on which it became a party to the present Convention.

2. Notwithstanding the provisions of paragraph 1, parties to agreements referred to in paragraph 1 may, where necessary, consider harmonizing such agreements with the basic principles of the present Convention.

3. Watercourse States may enter into one or more agreements, hereinafter referred to as "watercourse agreements", which apply and adjust the provisions of the present Convention to the characteristics and uses of a particular international watercourse or part thereof.

4. Where a watercourse agreement is concluded between two or more watercourse States, it shall define the waters to which it applies. Such an agreement may be entered into with respect to an entire international watercourse or any part thereof or a particular project, programme or use except insofar as the agreement adversely affects, to a significant extent, the use by one or more other watercourse States of the waters of the watercourse, without their express consent.

5. Where a watercourse State considers that adjustment and application of the provisions of the present Convention is required because of the characteristics and uses of a particular international watercourse, watercourse States shall consult with a view to negotiating in good faith for the purpose of concluding a watercourse agreement or agreements.

6. Where some but not all watercourse States to a particular international watercourse are parties to an agreement, nothing in such agreement shall affect the rights or obligations under the present Convention of watercourse States that are not parties to such an agreement.

Article 4
Parties to watercourse agreements

1. Every watercourse State is entitled to participate in the negotiation of and to become a party to any watercourse agreement that applies to the entire international watercourse, as well as to participate in any relevant consultations.

2. A watercourse State whose use of an international watercourse may be affected to a significant extent by the implementation of a proposed watercourse agreement that applies only to a part of the watercourse or to a particular project, programme or use is entitled to participate in consultations on such an agreement and, where appropriate, in the negotiation thereof in good faith with a view to becoming a party thereto, to the extent that its use is thereby affected.

PART II
GENERAL PRINCIPLES

Article 5
Equitable and reasonable utilization and participation

1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.

2. Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present Convention.

Article 6
Factors relevant to equitable and reasonable utilization

1. Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including:

(a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character;

(b) The social and economic needs of the watercourse States concerned;

(c) The population dependent on the watercourse in each watercourse State;

(d) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States;

(e) Existing and potential uses of the watercourse;

(f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect;

(g) The availability of alternatives, of comparable value, to a particular planned or existing use.

2. In the application of article 5 or paragraph 1 of this article, watercourse States concerned shall, when the need arises, enter into consultations in a spirit of cooperation.

3. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

Article 7
Obligation not to cause significant harm

1. Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse States.

2. Where significant harm nevertheless is caused to another watercourse State, the States whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard for the provisions of articles 5 and 6, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

Article 8
General obligation to cooperate

1. Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.

2. In determining the manner of such cooperation, watercourse States may consider the establishment of joint mechanisms or commissions, as deemed necessary by them, to facilitate cooperation on relevant measures and procedures in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.

Article 9
Regular exchange of data and information

1. Pursuant to article 8, watercourse States shall on a regular basis exchange readily available data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological and ecological nature and related to the water quality as well as related forecasts.

2. If a watercourse State is requested by another watercourse State to provide data or information that is not readily available, it shall employ its best efforts to comply with the request but may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information.

3. Watercourse States shall employ their best efforts to collect and, where appropriate, to process data and information in a manner which facilitates its utilization by the other watercourse States to which it is communicated.

Article 10
Relationship between different kinds of uses

1. In the absence of agreement or custom to the contrary, no use of an international watercourse enjoys inherent priority over other uses.

2. In the event of a conflict between uses of an international watercourse, it shall be resolved with reference to articles 5 to 7, with special regard being given to the requirements of vital human needs.

PART III
PLANNED MEASURES

Article 11
Information concerning planned measures

Watercourse States shall exchange information and consult each other and, if necessary, negotiate on the possible effects of planned measures on the condition of an international watercourse.

Article 12
Notification concerning planned measures with possible adverse effects

Before a watercourse State implements or permits the implementation of planned measures which may have a significant adverse effect upon other watercourse States, it shall provide those States with timely notification thereof. Such notification shall be accompanied by available technical data and information, including the results of any environmental impact assessment, in order to enable the notified States to evaluate the possible effects of the planned measures.

Article 13
Period for reply to notification

Unless otherwise agreed:

(a) A watercourse State providing a notification under article 12 shall allow the notified States a period of six months within which to study and evaluate the possible effects of the planned measures and to communicate the findings to it;

(b) This period shall, at the request of a notified State for which the evaluation of the planned measures poses special difficulty, be extended for a period of six months.

Article 14
Obligations of the notifying State during the period for reply

During the period referred to in article 13, the notifying State:

(a) Shall cooperate with the notified States by providing them, on request, with any additional data and information that is available and necessary for an accurate evaluation; and

(b) Shall not implement or permit the implementation of the planned measures without the consent of the notified States.

Article 15
Reply to notification

The notified States shall communicate their findings to the notifying State as early as possible within the period applicable pursuant to article 13. If a notified State finds that implementation of the planned measures would be inconsistent with the provisions of articles 5 or 7, it shall attach to its finding a documented explanation setting forth the reasons for the finding.

Article 16
Absence of reply to notification

1. If, within the period applicable pursuant to article 13, the notifying State receives no communication under article 15, it may, subject to its obligations under articles 5 and 7, proceed with the implementation of the planned measures, in accordance with the notification and any other data and information provided to the notified States.

2. Any claim to compensation by a notified State which has failed to reply within the period applicable pursuant to article 13 may be offset by the costs incurred by the notifying State for action undertaken after the expiration of the time for a reply which would not have been undertaken if the notified State had objected within that period.

Article 17
Consultations and negotiations concerning planned measures

1. If a communication is made under article 15 that implementation of the planned measures would be inconsistent with the provisions of articles 5 or 7, the notifying State and the State making the communication shall enter into consultations and, if necessary, negotiations with a view to arriving at an equitable resolution of the situation.

2. The consultations and negotiations shall be conducted on the basis that each State must in good faith pay reasonable regard to the rights and legitimate interests of the other State.

3. During the course of the consultations and negotiations, the notifying State shall, if so requested by the notified State at the time it makes the communication, refrain from implementing or permitting the implementation of the planned measures for a period of six months unless otherwise agreed.

Article 18
Procedures in the absence of notification

1. If a watercourse State has reasonable grounds to believe that another watercourse State is planning measures that may have a significant adverse effect upon it, the former State may request the latter to apply the provisions of article 12. The request shall be accompanied by a documented explanation setting forth its grounds.

2. In the event that the State planning the measures nevertheless finds that it is not under an obligation to provide a notification under article 12, it shall so inform the other State, providing a documented explanation setting forth the reasons for such finding. If this finding does not satisfy the other State, the two States shall, at the request of that other State, promptly enter into consultations and negotiations in the manner indicated in paragraphs 1 and 2 of article 17.

3. During the course of the consultations and negotiations, the State planning the measures shall, if so requested by the other State at the time it requests the initiation of consultations and negotiations, refrain from implementing or permitting the implementation of those measures for a period of six months unless otherwise agreed.

Article 19
Urgent implementation of planned measures

1. In the event that the implementation of planned measures is of the utmost urgency in order to protect public health, public safety or other equally important interests, the State planning the measures may, subject to articles 5 and 7, immediately proceed to implementation, notwithstanding the provisions of article 14 and paragraph 3 of article 17.

2. In such case, a formal declaration of the urgency of the measures shall be communicated without delay to the other watercourse States referred to in article 12 together with the relevant data and information.

3. The State planning the measures shall, at the request of any of the States referred to in paragraph 2, promptly enter into consultations and negotiations with it in the manner indicated in paragraphs 1 and 2 of article 17.

PART IV
PROTECTION, PRESERVATION AND MANAGEMENT

Article 20
Protection and preservation of ecosystems

Watercourse States shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses.

Article 21
Prevention, reduction and control of pollution

1. For the purpose of this article, "pollution of an international watercourse" means any detrimental alteration in the composition or quality of the waters of an international watercourse which results directly or indirectly from human conduct.

2. Watercourse States shall, individually and, where appropriate, jointly, prevent, reduce and control the pollution of an international watercourse that may cause significant harm to other watercourse States or to their environment, including harm to human health or safety, to the use of the waters for any beneficial purpose or to the living resources of the watercourse. Watercourse States shall take steps to harmonize their policies in this connection.

3. Watercourse States shall, at the request of any of them, consult with a view to arriving at mutually

agreeable measures and methods to prevent, reduce and control pollution of an international watercourse, such as:

(a) Setting joint water quality objectives and criteria;

(b) Establishing techniques and practices to address pollution from point and non-point sources;

(c) Establishing lists of substances the introduction of which into the waters of an international watercourse is to be prohibited, limited, investigated or monitored.

Article 22
Introduction of alien or new species

Watercourse States shall take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in significant harm to other watercourse States.

Article 23
Protection and preservation of the marine environment

Watercourse States shall, individually and, where appropriate, in cooperation with other States, take all measures with respect to an international watercourse that are necessary to protect and preserve the marine environment, including estuaries, taking into account generally accepted international rules and standards.

Article 24
Management

1. Watercourse States shall, at the request of any of them, enter into consultations concerning the management of an international watercourse, which may include the establishment of a joint management mechanism.

2. For the purposes of this article, "management" refers, in particular, to:

(a) Planning the sustainable development of an international watercourse and providing for the implementation of any plans adopted; and

(b) Otherwise promoting the rational and optimal utilization, protection and control of the watercourse.

Article 25
Regulation

1. Watercourse States shall cooperate, where appropriate, to respond to needs or opportunities for regulation of the flow of the waters of an international watercourse.

2. Unless otherwise agreed, watercourse States shall participate on an equitable basis in the construction and maintenance or defrayal of the costs of such regulation works as they may have agreed to undertake.

3. For the purposes of this article, "regulation" means the use of hydraulic works or any other continuing measure to alter, vary or otherwise control the flow of the waters of an international watercourse.

Article 26
Installations

1. Watercourse States shall, within their respective territories, employ their best efforts to maintain and protect installations, facilities and other works related to an international watercourse.

2. Watercourse States shall, at the request of any of them which has reasonable grounds to believe that it may suffer significant adverse effects, enter into consultations with regard to:

(a) The safe operation and maintenance of installations, facilities or other works related to an international watercourse; and

(b) The protection of installations, facilities or other works from wilful or negligent acts or the forces of nature.

PART V
HARMFUL CONDITIONS AND EMERGENCY SITUATIONS

Article 27
Prevention and mitigation of harmful conditions

Watercourse States shall, individually and, where appropriate, jointly, take all appropriate measures to prevent or mitigate conditions related to an international watercourse that may be harmful to other watercourse States, whether resulting from natural causes or human conduct, such as flood or ice conditions, water-borne diseases, siltation, erosion, salt-water intrusion, drought or desertification.

Article 28
Emergency situations

1. For the purposes of this article, "emergency" means a situation that causes, or poses an imminent threat of causing, serious harm to watercourse States or other States and that results suddenly from natural causes, such as floods, the breaking up of ice, landslides or earthquakes, or from human conduct, such as industrial accidents.

2. A watercourse State shall, without delay and by the most expeditious means available, notify other potentially affected States and competent international organizations of any emergency originating within its territory.

3. A watercourse State within whose territory an emergency originates shall, in cooperation with potentially affected States and, where appropriate, competent international organizations, immediately take all practicable measures necessitated by the circumstances to prevent,

mitigate and eliminate harmful effects of the emergency.

4. When necessary, watercourse States shall jointly develop contingency plans for responding to emergencies, in cooperation, where appropriate, with other potentially affected States and competent international organizations.

PART VI
MISCELLANEOUS PROVISIONS

Article 29
International watercourses and installations in time of armed conflict

International watercourses and related installations, facilities and other works shall enjoy the protection accorded by the principles and rules of international law applicable in international and non-international armed conflict and shall not be used in violation of those principles and rules.

Article 30
Indirect procedures

In cases where there are serious obstacles to direct contacts between watercourse States, the States concerned shall fulfil their obligations of cooperation provided for in the present Convention, including exchange of data and information, notification, communication, consultations and negotiations, through any indirect procedure accepted by them.

Article 31
Data and information vital to national defence or security

Nothing in the present Convention obliges a watercourse State to provide data or information vital to its national defence or security. Nevertheless, that State shall cooperate in good faith with the other watercourse States with a view to providing as much information as possible under the circumstances.

Article 32
Non-discrimination

Unless the watercourse States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who have suffered or are under a serious threat of suffering significant transboundary harm as a result of activities related to an international watercourse, a watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory.

Article 33
Settlement of disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of the present Convention, the Parties concerned shall, in the absence of an applicable agreement between them, seek a settlement of the dispute by peaceful means in accordance with the following provisions.

2. If the Parties concerned cannot reach agreement by negotiation requested by one of them, they may jointly seek the good offices of, or request mediation or conciliation by, a third party, or make use, as appropriate, of any joint watercourse institutions that may have been established by them or agree to submit the dispute to arbitration or to the International Court of Justice.

3. Subject to the operation of paragraph 10, if after six months from the time of the request for negotiations referred to in paragraph 2, the Parties concerned have not been able to settle their dispute through negotiation or any other means referred to in paragraph 2, the dispute shall be submitted, at the request of any of the parties to the dispute, to impartial fact-finding in accordance with paragraphs 4 to 9, unless the Parties otherwise agree.

4. A Fact-finding Commission shall be established, composed of one member nominated by each Party concerned and in addition a member not having the nationality of any of the Parties concerned chosen by the nominated members who shall serve as Chairman.

5. If the members nominated by the Parties are unable to agree on a Chairman within three months of the request for the establishment of the Commission, any Party concerned may request the Secretary-General of the United Nations to appoint the Chairman who shall not have the nationality of any of the parties to the dispute or of any riparian State of the watercourse concerned. If one of the Parties fails to nominate a member within three months of the initial request pursuant to paragraph 3, any other Party concerned may request the Secretary-General of the United Nations to appoint a person who shall not have the nationality of any of the parties to the dispute or of any riparian State of the watercourse concerned. The person so appointed shall constitute a single-member Commission.

6. The Commission shall determine its own procedure.

7. The Parties concerned have the obligation to provide the Commission with such information as it may require and, on request, to permit the Commission to have access to their respective territory and to inspect any facilities, plant, equipment, construction or natural feature relevant for the purpose of its inquiry.

8. The Commission shall adopt its report by a majority vote, unless it is a single-member Commission, and shall submit that report to the Parties concerned setting forth its findings and the reasons therefor and such recommendations as it deems appropriate for an equitable solution of the dispute, which the Parties concerned shall consider in good faith.

9. The expenses of the Commission shall be borne equally by the Parties concerned.

10. When ratifying, accepting, approving or acceding to the present Convention, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute not resolved in accordance with paragraph 2, it recognizes as compulsory ipso facto and without special agreement in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice; and/or

(b) Arbitration by an arbitral tribunal established and operating, unless the parties to the dispute otherwise agreed, in accordance with the procedure laid down in the annex to the present Convention.A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with subparagraph (b).

PART VII
FINAL CLAUSES

Article 34
Signature

The present Convention shall be open for signature by all States and by regional economic integration organizations from 21 May 1997 until 20 May 2000 at United Nations Headquarters in New York.

Article 35
Ratification, acceptance, approval or accession

1. The present Convention is subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

2. Any regional economic integration organization which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Secretary-General of the United Nations of any substantial modification in the extent of their competence.

Article 36
Entry into force

1. The present Convention shall enter into force on the ninetieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States.

Article 37
Authentic texts

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

ANNEX
ARBITRATION

Article 1

Unless the parties to the dispute otherwise agree, the arbitration pursuant to article 33 of the Convention shall take place in accordance with articles 2 to 14 of the present annex.

Article 2

The claimant party shall notify the respondent party that it is referring a dispute to arbitration pursuant to article 33 of the Convention. The notification shall state the subject matter of arbitration and include, in particular, the articles of the Convention, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute, the arbitral tribunal shall determine the subject matter.

Article 3

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the Chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute or of any riparian State of the watercourse concerned, nor have his or her usual place of residence in the territory of one of these parties or such riparian State, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 4

1. If the Chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall, at the request of a party, designate the Chairman within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the President of the International Court of Justice, who shall make the designation within a further two-month period.

Article 5

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention and international law.

Article 6

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 7

The arbitral tribunal may, at the request of one of the Parties, recommend essential interim measures of protection.

Article 8

1. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, information and facilities; and

(b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

2. The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

1. The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time limit for a period which should not exceed five more months.

2. The final decision of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

3. The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

4. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

41. CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

The Parties to this Convention,

Aware of the harmful impact on human health and the environment from certain hazardous chemicals and pesticides in international trade,

Recalling the pertinent provisions of the Rio Declaration on Environment and Development and chapter 19 of Agenda 21 on 'Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products',

Mindful of the work undertaken by the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) in the operation of the voluntary Prior Informed Consent procedure, as set out in the UNEP Amended London Guidelines for the Exchange of Information on Chemicals in International Trade (hereinafter referred to as the 'Amended London Guidelines') and the FAO International Code of Conduct on the Distribution and Use of Pesticides (hereinafter referred to as the 'International Code of Conduct'),

Taking into account the circumstances and particular requirements of developing countries and countries with economies in transition, in particular the need to strengthen national capabilities and capacities for the management of chemicals, including transfer of technology, providing financial and technical assistance and promoting cooperation among the Parties,

Noting the specific needs of some countries for information on transit movements,

Recognizing that good management practices for chemicals should be promoted in all countries, taking into account, inter alia, the voluntary standards laid down in the International Code of Conduct and the UNEP Code of Ethics on the International Trade in Chemicals,

Desiring to ensure that hazardous chemicals that are exported from their territory are packaged and labelled in a manner that is adequately protective of human health and the environment, consistent with the principles of the Amended London Guidelines and the International Code of Conduct,

Recognizing that trade and environmental policies should be mutually supportive with a view to achieving sustainable development,

Emphasizing that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection,

Understanding that the above recital is not intended to create a hierarchy between this Convention and other international agreements,

Determined to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade,

Have agreed as follows:

Article 1
Objective

The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

Article 2
Definitions

For the purposes of this Convention:

(a) 'Chemical' means a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature, but does not include any living organism. It consists of the following categories: pesticide (including severely hazardous pesticide formulations) and industrial;

(b) 'Banned chemical' means a chemical all uses of which within one or more categories have been prohibited by final regulatory action, in order to protect human health or the environment. It includes a chemical that has been refused approval for first-time use or has been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process and where there is clear evidence that such action has been taken in order to protect human health or the environment;

(c) 'Severely restricted chemical' means a chemical virtually all use of which within one or more categories has been prohibited by final regulatory action in order to protect human health or the

environment, but for which certain specific uses remain allowed. It includes a chemical that has, for virtually all use, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;

(d) 'Severely hazardous pesticide formulation' means a chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use;

(e) 'Final regulatory action' means an action taken by a Party, that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical;

(f) 'Export' and 'import' mean, in their respective connotations, the movement of a chemical from one Party to another Party, but exclude mere transit operations;

(g) 'Party' means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(h) 'Regional economic integration organization' means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(i) 'Chemical Review Committee' means the subsidiary body referred to in paragraph 6 of Article 18.

Article 3
Scope of the Convention

1. This Convention applies to:
(a) Banned or severely restricted chemicals; and

(b) Severely hazardous pesticide formulations.

2. This Convention does not apply to:
(a) Narcotic drugs and psychotropic substances;

(b) Radioactive materials;

(c) Wastes;

(d) Chemical weapons;

(e) Pharmaceuticals, including human and veterinary drugs;

(f) Chemicals used as food additives;

(g) Food;

(h) Chemicals in quantities not likely to affect human health or the environment provided they are imported:
(i) For the purpose of research or analysis; or
(ii) By an individual for his or her own personal use in quantities reasonable for such use.

Article 4
Designated national authorities

1. Each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention.

2. Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.

3. Each Party shall, no later than the date of the entry into force of this Convention for it, notify the name and address of such authority or authorities to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.

4. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3.

Article 5
Procedures for banned or severely restricted chemicals

1. Each Party that has adopted a final regulatory action shall notify the Secretariat in writing of such action. Such notification shall be made as soon as possible, and in any event no later than ninety days after the date on which the final regulatory action has taken effect, and shall contain the information required by Annex I, where available.

2. Each Party shall, at the date of entry into force of this Convention for it, notify the Secretariat in writing of its final regulatory actions in effect at that time, except that each Party that has submitted notifications of final regulatory actions under the Amended London Guidelines or the International Code of Conduct need not resubmit those notifications.

3. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a notification under paragraphs 1 and 2, verify whether the notification contains the information required by Annex I. If the notification contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the

information received. If the notification does not contain the information required, it shall inform the notifying Party accordingly.

4. The Secretariat shall every six months communicate to the Parties a synopsis of the information received pursuant to paragraphs 1 and 2, including information regarding those notifications which do not contain all the information required by Annex I.

5. When the Secretariat has received at least one notification from each of two Prior Informed Consent regions regarding a particular chemical that it has verified meet the requirements of Annex I, it shall forward them to the Chemical Review Committee. The composition of the Prior Informed Consent regions shall be defined in a decision to be adopted by consensus at the first meeting of the Conference of the Parties.

6. The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the Conference of the Parties whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.

Article 6
Procedures for severely hazardous pesticide formulations

1. Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III. In developing a proposal, the Party may draw upon technical expertise from any relevant source. The proposal shall contain the information required by part 1 of Annex IV.

2. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a proposal under paragraph 1, verify whether the proposal contains the information required by part 1 of Annex IV. If the proposal contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the proposal does not contain the information required, it shall inform the proposing Party accordingly.

3. The Secretariat shall collect the additional information set out in part 2 of Annex IV regarding the proposal forwarded under paragraph 2.

4. When the requirements of paragraphs 2 and 3 above have been fulfilled with regard to a particular severely hazardous pesticide formulation, the Secretariat shall forward the proposal and the related information to the Chemical Review Committee.

5. The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and, in accordance with the criteria set out in part 3 of Annex IV, recommend to the Conference of the Parties whether the severely hazardous pesticide formulation in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.

Article 7
Listing of chemicals in Annex III

1. For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies.

2. The recommendation referred to in paragraph 1 together with the draft decision guidance document shall be forwarded to the Conference of the Parties. The Conference of the Parties shall decide whether the chemical should be made subject to the Prior Informed Consent procedure and, accordingly, list the chemical in Annex III and approve the draft decision guidance document.

3. When a decision to list a chemical in Annex III has been taken and the related decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

Article 8
Chemicals in the voluntary Prior Informed Consent procedure

For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled.

Article 9
Removal of chemicals from Annex III

1. If a Party submits to the Secretariat information that was not available at the time of the decision to list a chemical in Annex III and that information indicates that its listing may no longer be justified

in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, the Secretariat shall forward the information to the Chemical Review Committee.

2. The Chemical Review Committee shall review the information it receives under paragraph 1. For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document.

3. A recommendation referred to in paragraph 2 shall be forwarded to the Conference of the Parties and be accompanied by a revised draft decision guidance document. The Conference of the Parties shall decide whether the chemical should be removed from Annex III and whether to approve the revised draft decision guidance document.

4. When a decision to remove a chemical from Annex III has been taken and the revised decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

Article 10
Obligations in relation to imports of chemicals listed in Annex III

1. Each Party shall implement appropriate legislative or administrative measures to ensure timely decisions with respect to the import of chemicals listed in Annex III.

2. Each Party shall transmit to the Secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the decision guidance document referred to in paragraph 3 of Article 7, a response concerning the future import of the chemical concerned. If a Party modifies this response, it shall forthwith submit the revised response to the Secretariat.

3. The Secretariat shall, at the expiration of the time period in paragraph 2, forthwith address to a Party that has not provided such a response, a written request to do so. Should the Party be unable to provide a response, the Secretariat shall, where appropriate, help it to provide a response within the time period specified in the last sentence of paragraph 2 of Article 11.

4. A response under paragraph 2 shall consist of either:

(a) A final decision, pursuant to legislative or administrative measures:
   (i) To consent to import;
   (ii) Not to consent to import; or
   (iii) To consent to import only subject to specified conditions; or

(b) An interim response, which may include:
   (i) An interim decision consenting to import with or without specified conditions, or not consenting to import during the interim period;
   (ii) A statement that a final decision is under active consideration;
   (iii) A request to the Secretariat, or to the Party that notified the final regulatory action, for further information;
   (iv) A request to the Secretariat for assistance in evaluating the chemical.

5. A response under subparagraphs (a) or (b) of paragraph 4 shall relate to the category or categories specified for the chemical in Annex III.

6. A final decision should be accompanied by a description of any legislative or administrative measures upon which it is based.

7. Each Party shall, no later than the date of entry into force of this Convention for it, transmit to the Secretariat responses with respect to each chemical listed in Annex III. A Party that has provided such responses under the Amended London Guidelines or the International Code of Conduct need not resubmit those responses.

8. Each Party shall make its responses under this Article available to those concerned within its jurisdiction, in accordance with its legislative or administrative measures.

9. A Party that, pursuant to paragraphs 2 and 4 above and paragraph 2 of Article 11, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:
   (a) Import of the chemical from any source; and
   (b) Domestic production of the chemical for domestic use.

10. Every six months the Secretariat shall inform all Parties of the responses it has received. Such information shall include a description of the legislative or administrative measures on which the decisions have been based, where available. The Secretariat shall, in addition, inform the Parties of any cases of failure to transmit a response.

Article 11
Obligations in relation to exports of chemicals listed in Annex III

1. Each exporting Party shall:

(a) Implement appropriate legislative or administrative measures to communicate the responses forwarded by the Secretariat in accordance with paragraph 10 of Article 10 to those concerned within its jurisdiction;

(b) Take appropriate legislative or administrative measures to ensure that exporters within its jurisdiction comply with decisions in each response no later than six months after the date on which the Secretariat first informs the Parties of such response in accordance with paragraph 10 of Article 10;

(c) Advise and assist importing Parties, upon request and as appropriate:
   (i) To obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and
   (ii) To strengthen their capacities and capabilities to manage chemicals safely during their life-cycle.

2. Each Party shall ensure that a chemical listed in Annex III is not exported from its territory to any importing Party that, in exceptional circumstances, has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, unless:

(a) It is a chemical that, at the time of import, is registered as a chemical in the importing Party; or

(b) It is a chemical for which evidence exists that it has previously been used in, or imported into, the importing Party and in relation to which no regulatory action to prohibit its use has been taken; or

(c) Explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Party. The importing Party shall respond to such a request within sixty days and shall promptly notify the Secretariat of its decision.

The obligations of exporting Parties under this paragraph shall apply with effect from the expiration of a period of six months from the date on which the Secretariat first informs the Parties, in accordance with paragraph 10 of Article 10, that a Party has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, and shall apply for one year.

Article 12
Export notification

1. Where a chemical that is banned or severely restricted by a Party is exported from its territory, that Party shall provide an export notification to the importing Party. The export notification shall include the information set out in Annex V.

2. The export notification shall be provided for that chemical prior to the first export following adoption of the corresponding final regulatory action. Thereafter, the export notification shall be provided before the first export in any calendar year. The requirement to notify before export may be waived by the designated national authority of the importing Party.

3. An exporting Party shall provide an updated export notification after it has adopted a final regulatory action that results in a major change concerning the ban or severe restriction of that chemical.

4. The importing Party shall acknowledge receipt of the first export notification received after the adoption of the final regulatory action. If the exporting Party does not receive the acknowledgement within thirty days of the dispatch of the export notification, it shall submit a second notification. The exporting Party shall make reasonable efforts to ensure that the importing Party receives the second notification.

5. The obligations of a Party set out in paragraph 1 shall cease when:

(a) The chemical has been listed in Annex III;

(b) The importing Party has provided a response for the chemical to the Secretariat in accordance with paragraph 2 of Article 10; and

(c) The Secretariat has distributed the response to the Parties in accordance with paragraph 10 of Article 10.

Article 13
Information to accompany exported chemicals

1. The Conference of the Parties shall encourage the World Customs Organization to assign specific Harmonized System customs codes to the individual chemicals or groups of chemicals listed in Annex III, as appropriate. Each Party shall require that, whenever a code has been assigned to such a chemical, the shipping document for that chemical bears the code when exported.

2. Without prejudice to any requirements of the importing Party, each Party shall require that both chemicals listed in Annex III and chemicals banned or severely restricted in its territory are,

when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.

3. Without prejudice to any requirements of the importing Party, each Party may require that chemicals subject to environmental or health labelling requirements in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.

4. With respect to the chemicals referred to in paragraph 2 that are to be used for occupational purposes, each exporting Party shall require that a safety data sheet that follows an internationally recognized format, setting out the most up-to-date information available, is sent to each importer.

5. The information on the label and on the safety data sheet should, as far as practicable, be given in one or more of the official languages of the importing Party.

Article 14
Information exchange

1. Each Party shall, as appropriate and in accordance with the objective of this Convention, facilitate:

(a) The exchange of scientific, technical, economic and legal information concerning the chemicals within the scope of this Convention, including toxicological, ecotoxicological and safety information;

(b) The provision of publicly available information on domestic regulatory actions relevant to the objectives of this Convention; and

(c) The provision of information to other Parties, directly or through the Secretariat, on domestic regulatory actions that substantially restrict one or more uses of the chemical, as appropriate.

2. Parties that exchange information pursuant to this Convention shall protect any confidential information as mutually agreed.

3. The following information shall not be regarded as confidential for the purposes of this Convention:

(a) The information referred to in Annexes I and IV, submitted pursuant to Articles 5 and 6 respectively;

(b) The information contained in the safety data sheet referred to in paragraph 4 of Article 13;

(c) The expiry date of the chemical;

(d) Information on precautionary measures, including hazard classification, the nature of the risk and the relevant safety advice; and

(e) The summary results of the toxicological and ecotoxicological tests.

4. The production date of the chemical shall generally not be considered confidential for the purposes of this Convention.

5. Any Party requiring information on transit movements through its territory of chemicals listed in Annex III may report its need to the Secretariat, which shall inform all Parties accordingly.

Article 15
Implementation of the Convention

1. Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include:

(a) The establishment of national registers and databases including safety information for chemicals;

(b) The encouragement of initiatives by industry to promote chemical safety; and

(c) The promotion of voluntary agreements, taking into consideration the provisions of Article 16.

2. Each Party shall ensure, to the extent practicable, that the public has appropriate access to information on chemical handling and accident management and on alternatives that are safer for human health or the environment than the chemicals listed in Annex III.

3. The Parties agree to cooperate, directly or, where appropriate, through competent international organizations, in the implementation of this Convention at the subregional, regional and global levels.

4. Nothing in this Convention shall be interpreted as restricting the right of the Parties to take action that is more stringently protective of human health and the environment than that called for in this Convention, provided that such action is consistent with the provisions of this Convention and is in accordance with international law.

Article 16
Technical assistance

The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting

technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle.

Article 17
Non-Compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance.

Article 18
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP and the Director-General of FAO, acting jointly, no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

(a) Establish, further to the requirements of paragraph 6 below, such subsidiary bodies, as it considers necessary for the implementation of the Convention;

(b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

(c) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

(a) The members of the Chemical Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee;

(c) The Committee shall make every effort to make its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 19
Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

(a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;

(b) To facilitate assistance to the Parties, particularly developing Parties and Parties with economies in transition, on request, in the implementation of this Convention;

(c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(d) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(e) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed jointly by the Executive Director of UNEP and the Director-General of FAO, subject to such arrangements as shall be agreed between them and approved by the Conference of the Parties.

4. The Conference of the Parties may decide, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other competent international organizations, should it find that the Secretariat is not functioning as intended.

Article 20
Settlement of disputes

1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
   (a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable; and

   (b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).

4. A declaration made pursuant to paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than the second meeting of the Conference.

Article 21
Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to this Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. The amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 22
Adoption and amendment of annexes

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

(b) Any Party that is unable to accept an additional annex shall so notify the Depositary, in writing, within one year from the date of communication of the adoption of the additional annex by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of an additional annex and the annex shall thereupon enter into force for that Party subject to subparagraph (c) below; and

(c) On the expiry of one year from the date of the communication by the Depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b) above.

4. Except in the case of Annex III, the proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention.

5. The following procedure shall apply to the proposal, adoption and entry into force of amendments to Annex III:

(a) Amendments to Annex III shall be proposed and adopted according to the procedure laid down in Articles 5 to 9 and paragraph 2 of Article 21;

(b) The Conference of the Parties shall take its decisions on adoption by consensus;

(c) A decision to amend Annex III shall forthwith be communicated to the Parties by the Depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

Article 23
Voting

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 below.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

3. For the purposes of this Convention, 'Parties present and voting' means Parties present and casting an affirmative or negative vote.

Article 24
Signature

This Convention shall be open for signature at Rotterdam by all States and regional economic integration organizations on 11 September 1998, and at United Nations Headquarters in New York from 12 September 1998 to 10 September 1999.

Article 25
Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the Depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

Article 26
Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization that ratifies, accepts or approves this

Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

Article 27
Reservations

No reservations may be made to this Convention.

Article 28
Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 29
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention.

Article 30
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Rotterdam on this tenth day of September, one thousand nine hundred and ninety-eight.

ANNEX I
INFORMATION REQUIREMENTS FOR NOTIFICATIONS MADE PURSUANT TO ARTICLE 5

Notifications shall include:

1. Properties, identification and uses

(a) Common name;

(b) Chemical name according to an internationally recognized nomenclature (for example, International Union of Pure and Applied Chemistry (IUPAC)), where such nomenclature exists;

(c) Trade names and names of preparations;

(d) Code numbers: Chemicals Abstract Service (CAS) number, Harmonized System customs code and other numbers;

(e) Information on hazard classification, where the chemical is subject to classification requirements;

(f) Use or uses of the chemical;

(g) Physico-chemical, toxicological and ecotoxicological properties.

2. Final regulatory action

(a) Information specific to the final regulatory action:

(i) Summary of the final regulatory action;
(ii) Reference to the regulatory document;
(iii) Date of entry into force of the final regulatory action;
(iv) Indication of whether the final regulatory action was taken on the basis of a risk or hazard evaluation and, if so, information on such evaluation, covering a reference to the relevant documentation;
(v) Reasons for the final regulatory action relevant to human health, including the health of consumers and workers, or the environment;
(vi) Summary of the hazards and risks presented by the chemical to human health, including the health of consumers and workers, or the environment and the expected effect of the final regulatory action;

(b) Category or categories where the final regulatory action has been taken, and for each category:

(i) Use or uses prohibited by the final regulatoryaction;

(ii) Use or uses that remain allowed;

(iii) Estimation, where available, of quantities of the chemical produced, imported, exported and used;

(c) An indication, to the extent possible, of the likely relevance of the final regulatory action to other States and regions;

(d) Other relevant information that may cover:
(i) Assessment of socio-economic effects of the final regulatory action;
(ii) Information on alternatives and their relative risks, where available, such as:
- Integrated pest management strategies;
- Industrial practices and processes, including cleaner technology.

ANNEX II
CRITERIA FOR LISTING BANNED OR SEVERELY RESTRICTED CHEMICALS IN ANNEX III

In reviewing the notifications forwarded by the Secretariat pursuant to paragraph 5 of Article 5, the Chemical Review Committee shall:

(a) Confirm that the final regulatory action has been taken in order to protect human health or the environment;

(b) Establish that the final regulatory action has been taken as a consequence of a risk evaluation. This evaluation shall be based on a review of scientific data in the context of the conditions prevailing in the Party in question. For this purpose, the documentation provided shall demonstrate that;

  (i) Data have been generated according to scientifically recognized methods;

  (ii) Data reviews have been performed and documented according to generally recognized scientific principles and procedures;

  (iii) The final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action;

(c) Consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III, by taking into account:

  (i) Whether the final regulatory action led, or would be expected to lead, to a significant decrease in the quantity of the chemical used or the number of its uses;

  (ii) Whether the final regulatory action led to an actual reduction of risk or would be expected to result in a significant reduction of risk for human health or the environment of the Party that submitted the notification;

  (iii) Whether the considerations that led to the final regulatory action being taken are applicable only in a limited geographical area or in other limited circumstances;

  (iv) Whether there is evidence of ongoing international trade in the chemical;

(d) Take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III.

ANNEX III
CHEMICALS SUBJECT TO THE PRIOR INFORMED CONSENT PROCEDURE

Chemical	Relevant CAS number(s)	Category
2,4,5-T	93-76-5	Pesticide
Aldrin	309-00-2	Pesticide
Captafol	2425-06-1	Pesticide
Chlordane	57-74-9	Pesticide
Chlordimeform	6164-98-3	Pesticide
Chlorobenzilate	510-15-6	Pesticide
DDT	50-29-3	Pesticide
Dieldrin	60-57-1	Pesticide
Dinoseb and dinoseb salts	88-85-7	Pesticide
1,2-dibromoethane (EDB)	106-93-4	Pesticide
Fluoroacetamide	640-19-7	Pesticide
HCH (mixed isomers)	608-73-1	Pesticide
Heptachlor	76-44-8	Pesticide
Hexachlorobenzene	118-74-1	Pesticide

Lindane	58-89-9	Pesticide
Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds		Pesticide
Pentachlorophenol	87-86-5	Pesticide
Monocrotophos (Soluble liquid formulations of the substance that exceed 600 g active ingredient/l)	6923-22-4	Severely hazardous pesticide formulation
Methamidophos (Soluble liquid formulations of the substance that exceed 600 g active ingredient/l)	10265-92-6	Severely hazardous pesticide formulation
Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g active ingredient/l)	13171-21-6 (mixture, (E)&(Z) isomers) 23783-98-4 ((Z)-isomer) 297-99-4 ((E) -isomer)	Severely hazardous pesticide formulation
Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient)	298-00-0	Severely hazardous pesticide formulation
Parathion (all formulations - aerosols, dustable powder (DP), emulsifiable concentrate (EC), granules (GR) and wettable powders (WP) - of this substance are included, except capsule suspensions (CS))	56-38-2	Severely hazardous pesticide formulation
Crocidolite	12001-28-4	Industrial
Polybrominated biphenyls (PBB)	36355-01-8(hexa-) 27858-07-7 (octa-) 13654-09-6 (deca-)	Industrial
Polychlorinated biphenyls (PCB)	1336-36-3	Industrial
Polychlorinated terphenyls (PCT)	61788-33-8	Industrial
Tris (2,3-dibromopropyl) phosphate	126-72-7	Industrial

ANNEX IV
INFORMATION AND CRITERIA FOR LISTING SEVERELY HAZARDOUS PESTICIDE FORMULATIONS IN ANNEX III

Part 1. Documentation required from a proposing Party

Proposals submitted pursuant to paragraph 1 of Article 6 shall include adequate documentation containing the following information:

(a) Name of the hazardous pesticide formulation;

(b) Name of the active ingredient or ingredients in the formulation;

(c) Relative amount of each active ingredient in the formulation;

(d) Type of formulation;

(e) Trade names and names of the producers, if available;

(f) Common and recognized patterns of use of the formulation within the proposing Party;

(g) A clear description of incidents related to the problem, including the adverse effects and the way in which the formulation was used;

(h) Any regulatory, administrative or other measure taken, or intended to be taken, by the proposing Party in response to such incidents.

Part 2. Information to be collected by the Secretariat

Pursuant to paragraph 3 of Article 6, the Secretariat shall collect relevant information relating to the formulation, including:

(a) The physico-chemical, toxicological and ecotoxicological properties of the formulation;

(b) The existence of handling or applicator restrictions in other States;

(c) Information on incidents related to the formulation in other States;

(d) Information submitted by other Parties, international organizations, non-governmental organizations or other relevant sources, whether national or international;

(e) Risk and/or hazard evaluations, where available;

(f) Indications, if available, of the extent of use of the formulation, such as the number of registrations or production or sales quantity;

(g) Other formulations of the pesticide in question, and incidents, if any, relating to these formulations;

(h) Alternative pest-control practices;

(i) Other information which the Chemical Review Committee may identify as relevant.

Part 3. Criteria for listing severely hazardous pesticide formulations in Annex III

In reviewing the proposals forwarded by the Secretariat pursuant to paragraph 5 of Article 6, the Chemical Review Committee shall take into account:

(a) The reliability of the evidence indicating that use of the formulation, in accordance with common or recognized practices within the proposing Party, resulted in the reported incidents;

(b) The relevance of such incidents to other States with similar climate, conditions and patterns of use of the formulation;

(c) The existence of handling or applicator restrictions involving technology or techniques that may not be reasonably or widely applied in States lacking the necessary infrastructure;

(d) The significance of reported effects in relation to the quantity of the formulation used;

(e) That intentional misuse is not in itself an adequate reason to list a formulation in Annex III.

ANNEX V
INFORMATION REQUIREMENTS FOR EXPORT NOTIFICATION

1. Export notifications shall contain the following information:

(a) Name and address of the relevant designated national authorities of the exporting Party and the importing Party;

(b) Expected date of export to the importing Party;

(c) Name of the banned or severely restricted chemical and a summary of the information specified in Annex I that is to be provided to the Secretariat in accordance with Article 5. Where more than one such chemical is included in a mixture or preparation, such information shall be provided for each chemical;

(d) A statement indicating, if known, the foreseen category of the chemical and its foreseen use within that category in the importing Party;

(e) Information on precautionary measures to reduce exposure to, and emission of, the chemical;

(f) In the case of a mixture or a preparation, the concentration of the banned or severely restricted chemical or chemicals in question;

(g) Name and address of the importer;

(h) Any additional information that is readily available to the relevant designated national authority of the exporting Party that would be of assistance to the designated national authority of the importing Party.

2. In addition to the information referred to in paragraph 1, the exporting Party shall provide such further information specified in Annex I as may be requested by the importing Party.

42. CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

The Parties to this Convention,

Recognizing that persistent organic pollutants possess toxic properties, resist degradation, bioaccumulate and are transported, through air, water and migratory species, across international boundaries and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems,

Aware of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations,

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue,

Conscious of the need for global action on persistent organic pollutants,

Mindful of decision 19/13 C of 7 February 1997 of the Governing Council of the United Nations Environment Programme to initiate international action to protect human health and the environment through measures which will reduce and/or eliminate emissions and discharges of persistent organic pollutants,

Recalling the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal including the regional agreements developed within the framework of its Article 11,

Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21,

Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention,

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Taking into account the circumstances and particular requirements of developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Taking full account of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados on 6 May 1994,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,

Recognizing the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants,

Underlining the importance of manufacturers of persistent organic pollutants taking responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals,

Conscious of the need to take measures to prevent adverse effects caused by persistent organic pollutants at all stages of their life cycle,

Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,

Encouraging Parties not having regulatory and assessment schemes for pesticides and industrial chemicals to develop such schemes,

Recognizing the importance of developing and using environmentally sound alternative processes and chemicals,

Determined to protect human health and the environment from the harmful impacts of persistent organic pollutants,

Have agreed as follows:

Article 1
Objective

Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

Article 2
Definitions

For the purposes of this Convention:

(a) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(b) "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(c) "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 3
Measures to Reduce or Eliminate Releases from Intentional Production and Use

1. Each Party shall:

(a) Prohibit and/or take the legal and administrative measures necessary to eliminate:
  (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and
  (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and

(b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:

(a) That a chemical listed in Annex A or Annex B is imported only:
  (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or
  (ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;

(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:
  (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;
  (ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or
  (iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:
    a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;
    b. Comply with the provisions of paragraph 1 of Article 6; and
    c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B. The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.

4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in

paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.

5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.

6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.

Article 4
Register of Specific Exemptions

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.

2. The Register shall include:
(a) A list of the types of specific exemptions reproduced from Annex A and Annex B;

(b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and

(c) A list of the expiry dates for each registered specific exemption.

3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.

4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.

5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.

6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.

7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.

8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

Article 5
Measures to Reduce or Eliminate Releases from Unintentional Production

Each Party shall at a minimum take the following measures to reduce the total releases derived from anthropogenic sources of each of the chemicals listed in Annex C, with the goal of their continuing minimization and, where feasible, ultimate elimination:

(a) Develop an action plan or, where appropriate, a regional or subregional action plan within two years of the date of entry into force of this Convention for it, and subsequently implement it as part of its implementation plan specified in Article 7, designed to identify, characterize and address the release of the chemicals listed in Annex C and to facilitate implementation of subparagraphs (b) to (e). The action plan shall include the following elements:
   (i) An evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates, taking into consideration the source categories identified in Annex C;
   (ii) An evaluation of the efficacy of the laws and policies of the Party relating to the management of such releases;
   (iii) Strategies to meet the obligations of this paragraph, taking into account the evaluations in (i) and (ii);
   (iv) Steps to promote education and training with regard to, and awareness of, those strategies;
   (v) A review every five years of those strategies and of their success in meeting the obligations of this paragraph; such reviews

shall be included in reports submitted pursuant to Article 15;

(vi) A schedule for implementation of the action plan, including for the strategies and measures identified therein;

(b) Promote the application of available, feasible and practical measures that can expeditiously achieve a realistic and meaningful level of release reduction or source elimination;

(c) Promote the development and, where it deems appropriate, require the use of substitute or modified materials, products and processes to prevent the formation and release of the chemicals listed in Annex C, taking into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines to be adopted by decision of the Conference of the Parties;

(d) Promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action plan, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(e) Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

(i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and

(ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d). When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(f) For the purposes of this paragraph and Annex C:

(i) "Best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for release limitations designed to prevent and, where that is not practicable, generally to reduce releases of chemicals listed in Part I of Annex C and their impact on the environment as a whole. In this regard:

(ii) "Techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(iii) "Available" techniques means those techniques that are accessible to the operator and that are developed on a scale that allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages; and

(iv) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(v) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(vi) "New source" means any source of which the construction or substantial modification is commenced at least one year after the date of:

a. Entry into force of this Convention for the Party concerned; or

b. Entry into force for the Party concerned of an amendment to Annex C where the source becomes subject to the provisions of this Convention only by virtue of that amendment.

(g) Release limit values or performance standards may be used by a Party to fulfill its commitments for best available techniques under this paragraph.

Article 6
Measures to Reduce or Eliminate Releases from Stockpiles and Wastes

1. In order to ensure that stockpiles consisting of or containing chemicals listed either in Annex A or Annex B and wastes, including products and articles upon becoming wastes, consisting of, containing or contaminated with a chemical listed in Annex A, B or C, are managed in a manner protective of human health and the environment, each Party shall:

(a) Develop appropriate strategies for identifying:

(i) Stockpiles consisting of or containing chemicals listed either in Annex A or Annex B; and

(ii) Products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C;

(b) Identify, to the extent practicable, stockpiles consisting of or containing chemicals listed either in Annex A or Annex B on the basis of the strategies referred to in subparagraph (a);

(c) Manage stockpiles, as appropriate, in a safe, efficient and environmentally sound manner. Stockpiles of chemicals listed either in Annex A or Annex B, after they are no longer allowed to be used according to any specific exemption specified in Annex A or any specific exemption or acceptable purpose specified in Annex B, except stockpiles which are allowed to be exported according to paragraph 2 of Article 3, shall be deemed to be waste and shall be managed in accordance with subparagraph (d);

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:
(i) Handled, collected, transported and stored in an environmentally sound manner;
(ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;
(iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and
(iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

(e) Endeavour to develop appropriate strategies for identifying sites contaminated by chemicals listed in Annex A, B or C; if remediation of those sites is undertaken it shall be performed in an environmentally sound manner.

2. The Conference of the Parties shall cooperate closely with the appropriate bodies of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to, inter alia:

(a) Establish levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants as specified in paragraph 1 of Annex D are not exhibited;

(b) Determine what they consider to be the methods that constitute environmentally sound disposal referred to above; and

(c) Work to establish, as appropriate, the concentration levels of the chemicals listed in Annexes A, B and C in order to define the low persistent organic pollutant content referred to in paragraph 1 (d)(ii).

Article 7
Implementation Plans

1. Each Party shall:
(a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;

(b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and

(c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

Article 8
Listing of Chemicals in Annexes A, B and C

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall

forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:

(a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or

(b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:

(a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or

(b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7 (b), a Party may request the Conference of the Parties to consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7 (a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

Article 9
Information Exchange

1. Each Party shall facilitate or undertake the exchange of information relevant to:

(a) The reduction or elimination of the production, use and release of persistent organic pollutants; and

(b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.

2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.

3. Each Party shall designate a national focal point for the exchange of such information.

4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and non-governmental organizations.

5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

Article 10
Public Information, Awareness and Education

1. Each Party shall, within its capabilities, promote and facilitate:

(a) Awareness among its policy and decision makers with regard to persistent organic pollutants;

(b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;

(c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives;

(d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;

(e) Training of workers, scientists, educators and technical and managerial personnel;

(f) Development and exchange of educational and public awareness materials at the national and international levels; and

(g) Development and implementation of education and training programmes at the national and international levels.

2. Each Party shall, within its capabilities, ensure that the public has access to the public information referred to in paragraph 1 and that the information is kept up-to-date.

3. Each Party shall, within its capabilities, encourage industry and professional users to promote and facilitate the provision of the information referred to in paragraph 1 at the national level and, as appropriate, subregional, regional and global levels.

4. In providing information on persistent organic pollutants and their alternatives, Parties may use safety data sheets, reports, mass media and other means of communication, and may establish information centres at national and regional levels.

5. Each Party shall give sympathetic consideration to developing mechanisms, such as pollutant release and transfer registers, for the collection and dissemination of information on estimates of the annual quantities of the chemicals listed in Annex A, B or C that are released or disposed of.

Article 11
Research, Development and Monitoring

1. The Parties shall, within their capabilities, at the national and international levels, encourage and/or undertake appropriate research, development, monitoring and cooperation pertaining to persistent organic pollutants and, where relevant, to their alternatives and to candidate persistent organic pollutants, including on their:

(a) Sources and releases into the environment;

(b) Presence, levels and trends in humans and the environment;

(c) Environmental transport, fate and transformation;

(d) Effects on human health and the environment;

(e) Socio-economic and cultural impacts;

(f) Release reduction and/or elimination; and

(g) Harmonized methodologies for making inventories of generating sources and analytical techniques for the measurement of releases.

2. In undertaking action under paragraph 1, the Parties shall, within their capabilities:

(a) Support and further develop, as appropriate, international programmes, networks and organizations aimed at defining, conducting, assessing and financing research, data collection and monitoring, taking into account the need to minimize duplication of effort;

(b) Support national and international efforts to strengthen national scientific and technical research capabilities, particularly in developing countries and countries with economies in transition, and to promote access to, and the exchange of, data and analyses;

(c) Take into account the concerns and needs, particularly in the field of financial and technical resources, of developing countries and countries with economies in transition and cooperate in improving their capability to participate in the efforts referred to in subparagraphs (a) and (b);

(d) Undertake research work geared towards alleviating the effects of persistent organic pollutants on reproductive health;

(e) Make the results of their research, development and monitoring activities referred to in this paragraph accessible to the public on a timely and regular basis; and

(f) Encourage and/or undertake cooperation with regard to storage and maintenance of information generated from research, development and monitoring.

Article 12
Technical Assistance

1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.

3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance.

Article 13
Financial Resources and Mechanisms

1. Each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfill their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6. Other Parties may also on a voluntary basis and in accordance with their capabilities provide such financial resources. Contributions from other sources should also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability, the timely flow of funds and the importance of burden sharing among the contributing Parties.

3. Developed country Parties, and other Parties in accordance with their capabilities and in accordance with their national plans, priorities and programmes, may also provide and developing country Parties and Parties with economies in transition avail themselves of financial resources to assist in their implementation of this Convention through other bilateral, regional and multilateral sources or channels.

4. The extent to which the developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention relating to financial resources, technical assistance and technology transfer. The fact that sustainable economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties will be taken fully into account, giving due consideration to the need for the protection of human health and the environment.

5. The Parties shall take full account of the specific needs and special situation of the least developed countries and the small island developing states in their actions with regard to funding.

6. A mechanism for the provision of adequate and sustainable financial resources to developing

country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention is hereby defined. The mechanism shall function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention. Its operation shall be entrusted to one or more entities, including existing international entities, as may be decided upon by the Conference of the Parties. The mechanism may also include other entities providing multilateral, regional and bilateral financial and technical assistance. Contributions to the mechanism shall be additional to other financial transfers to developing country Parties and Parties with economies in transition as reflected in, and in accordance with, paragraph 2.

7. Pursuant to the objectives of this Convention and paragraph 6, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto. The guidance shall address, inter alia:

(a) The determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;

(b) The provision by the entity or entities of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of this Convention;

(c) The promotion of multiple-source funding approaches, mechanisms and arrangements;

(d) The modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount shall be periodically reviewed; and

(e) The modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them.

8. The Conference of the Parties shall review, not later than its second meeting and thereafter on a regular basis, the effectiveness of the mechanism established under this Article, its ability to address the changing needs of the developing country Parties and Parties with economies in transition, the criteria and guidance referred to in paragraph 7, the level of funding as well as the effectiveness of the performance of the institutional entities entrusted to operate the financial mechanism. It shall, based on such review, take appropriate action, if necessary, to improve the effectiveness of the mechanism, including by means of recommendations and guidance on measures to ensure adequate and sustainable funding to meet the needs of the Parties.

Article 14
Interim Financial Arrangements

The institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13. The institutional structure of the Global Environment Facility should fulfill this function through operational measures related specifically to persistent organic pollutants taking into account that new arrangements for this area may be needed.

Article 15
Reporting

1. Each Party shall report to the Conference of the Parties on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures in meeting the objectives of the Convention.

2. Each Party shall provide to the Secretariat:

(a) Statistical data on its total quantities of production, import and export of each of the chemicals listed in Annex A and Annex B or a reasonable estimate of such data; and

(b) To the extent practicable, a list of the States from which it has imported each such substance and the States to which it has exported each such substance.

3. Such reporting shall be at periodic intervals and in a format to be decided by the Conference of the Parties at its first meeting.

Article 16
Effectiveness evaluation

1. Commencing four years after the date of entry into force of this Convention, and periodically thereafter at intervals to be decided by the Conference of the Parties, the Conference shall evaluate the effectiveness of this Convention.

2. In order to facilitate such evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport. These arrangements:

(a) Should be implemented by the Parties on a regional basis when appropriate, in accordance with their technical and financial capabilities, using existing monitoring programmes and mechanisms to the extent possible and promoting harmonization of approaches;

(b) May be supplemented where necessary, taking into account the differences between regions and their capabilities to implement monitoring activities; and

(c) Shall include reports to the Conference of the Parties on the results of the monitoring activities on a regional and global basis at intervals to be specified by the Conference of the Parties.

3. The evaluation described in paragraph 1 shall be conducted on the basis of available scientific, environmental, technical and economic information, including:

(a) Reports and other monitoring information provided pursuant to paragraph 2;

(b) National reports submitted pursuant to Article 15; and

(c) Non-compliance information provided pursuant to the procedures established under Article 17.

Article 17
Non-Compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.

Article 18
Settlement of Disputes

1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable;

(b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).

4. A declaration made pursuant to paragraph 2 or paragraph 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than at its second meeting.

Article 19
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any

subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:
   (a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention;

   (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

   (c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2 (b) (iii) of Article 3;

   (d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Persistent Organic Pollutants Review Committee for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

(a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee; and

(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The Conference of the Parties shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2 (b) of Article 3, including consideration of its effectiveness.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 20
Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:
(a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;

(b) To facilitate assistance to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;

(c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(d) To prepare and make available to the Parties periodic reports based on information received pursuant to Article 15 and other available information;

(e) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(f) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.

Article 21
Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also

communicate proposed amendments to the signatories to this Convention and, for information, to the depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting.

4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 22
Adoption and Amendment of Annexes

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Any additional annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

(b) Any Party that is unable to accept an additional annex shall so notify the depositary, in writing, within one year from the date of communication by the depositary of the adoption of the additional annex. The depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of any additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and

(c) On the expiry of one year from the date of the communication by the depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b).

4. The proposal, adoption and entry into force of amendments to Annex A, B or C shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to this Convention, except that an amendment to Annex A, B or C shall not enter into force with respect to any Party that has made a declaration with respect to amendment to those Annexes in accordance with paragraph 4 of Article 25, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the depositary of its instrument of ratification, acceptance, approval or accession with respect to such amendment.

5. The following procedure shall apply to the proposal, adoption and entry into force of an amendment to Annex D, E or F:

(a) Amendments shall be proposed according to the procedure in paragraphs 1 and 2 of Article 21;

(b) The Parties shall take decisions on an amendment to Annex D, E or F by consensus; and

(c) A decision to amend Annex D, E or F shall forthwith be communicated to the Parties by the depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

Article 23
Right to Vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Article 24
Signature

This Convention shall be open for signature at Stockholm by all States and regional economic integration organizations on 23 May 2001, and at the United Nations Headquarters in New York from 24 May 2001 to 22 May 2002.

Article 25
Ratification, Acceptance,Approval or Accession

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Article 26
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

Article 27
Reservations

No reservations may be made to this Convention.

Article 28
Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the depositary.

2. Any such withdrawal shall take effect upon the expiry of one year from the date of receipt by the depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 29
Depositary

The Secretary-General of the United Nations shall be the depositary of this Convention.

Article 30
Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE AT Stockholm on this twenty-second day of May, two thousand and one.

ANNEX A
ELIMINATION

Part I

Chemical	Activity	Specific exemption
Aldrin*		
CAS No: 309-00-2	Production	None
	Use	Local ectoparasiticide Insecticide
Chlordane*		
CAS No: 57-74-9	Production	As allowed for the Parties listed in the Register
	Use	Local ectoparasiticide Insecticide Termiticide Termiticide in buildings and dams Termiticide in roads Additive in plywood adhesives
Dieldrin*		
CAS No: 60-57-1	Production	None
	Use	In agricultural operations
Endrin*		
CAS No: 72-20-8	Production	None
	Use	None
Heptachlor*		
CAS No: 76-44-8	Production	None
	Use	Termiticide Termiticide in structures of houses Termiticide (subterranean) Wood treatment In use in underground cable boxes
Hexachlorobenzene		
CAS No: 118-74-1	Production	As allowed for the Parties listed in the Register
	Use	Intermediate Solvent in pesticide Closed system site limited intermediate
Mirex*		
CAS No: 2385-85-5	Production	As allowed for the Parties listed in the Register
	Use	Termiticide
Toxaphene*		
CAS No: 8001-35-2	Production	None
	Use	None
Polychlorinated Biphenyls (PCB)*	Production	None
	Use	Articles in use in accordance with the provisions of Part II of this Annex

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note, which does not apply to a chemical that has an asterisk following its name in the Chemical column in Part I of this Annex, shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to

reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II of this Annex, which may be exercised by all Parties.

Part II
Polychlorinated biphenyls

Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities:

(i) Make determined efforts to identify, label and remove from use equipment containing greater than 10 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(ii) Make determined efforts to identify, label and remove from use equipment containing greater than 0.05 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent polychlorinated biphenyls and volumes greater than 0.05 litres;

(b) Consistent with the priorities in subparagraph (a), promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

(i) Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimised and quickly remedied;

(ii) Not use in equipment in areas associated with the production or processing of food or feed;

(iii) When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks;

(c) Notwithstanding paragraph 2 of Article 3, ensure that equipment containing polychlorinated biphenyls, as described in subparagraph (a), shall not be exported or imported except for the purpose of environmentally sound waste management;

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;

(g) Provide a report every five years on progress in eliminating polychlorinated biphenyls and submit it to the Conference of the Parties pursuant to Article 15;

(h) The reports described in subparagraph (g) shall, as appropriate, be considered by the Conference of the Parties in its reviews relating to polychlorinated biphenyls. The Conference of the Parties shall review progress towards elimination

of polychlorinated biphenyls at five-year intervals or other period, as appropriate, taking into account such reports.

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use acceptable purpose or specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered in respect of them in accordance with Article 4.

Part II
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)

1. The production and use of DDT shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it. A DDT Register is hereby established and shall be available to the public. The Secretariat shall maintain the DDT Register.

2. Each Party that produces and/or uses DDT shall restrict such production and/or use for disease vector control in accordance with the World Health Organization recommendations and guidelines on the use of DDT and when locally safe, effective and affordable alternatives are not available to the Party in question.

3. In the event that a Party not listed in the DDT Register determines that it requires DDT for disease vector control, it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the DDT Register. It shall at the same time notify the World Health Organization.

4. Every three years, each Party that uses DDT shall provide to the Secretariat and the World Health Organization information on the amount used, the conditions of such use and its relevance to that Party's disease management strategy, in a format to be decided by the Conference of the Parties in consultation with the World Health Organization.

5. With the goal of reducing and ultimately eliminating the use of DDT, the Conference of the Parties shall encourage:

(a) Each Party using DDT to develop and implement an action plan as part of the implementation plan specified in Article 7. That action plan shall include:
  (i) Development of regulatory and other mechanisms to ensure that DDT use is restricted to disease vector control;
  (ii) Implementation of suitable alternative products, methods and strategies, including resistance management strategies to ensure the continuing effectiveness of these alternatives;
  (iii) Measures to strengthen health care and to reduce the incidence of the disease.

(b) The Parties, within their capabilities, to promote research and development of safe alternative chemical and non-chemical products, methods and strategies for Parties using DDT, relevant to the conditions of those countries and with the goal of decreasing the human and economic burden of disease. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives. Viable alternatives to DDT shall pose less risk to human health and the environment,

be suitable for disease control based on conditions in the Parties in question and be supported with monitoring data.

6. Commencing at its first meeting, and at least every three years thereafter, the Conference of the Parties shall, in consultation with the World Health Organization, evaluate the continued need for DDT for disease vector control on the basis of available scientific, technical, environmental and economic information, including:

(a) The production and use of DDT and the conditions set out in paragraph 2;

(b) The availability, suitability and implementation of the alternatives to DDT; and

(c) Progress in strengthening the capacity of countries to transfer safely to reliance on such alternatives.

7. A Party may, at any time, withdraw its name from the DDT Registry upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

ANNEX B
RESTRICTION

Part I

Chemical	Activity	Acceptable purpose or specific exemption
DDT (1,1,1-trichloro-2,2-bis (4-chlorophenyl)ethane) CAS No: 50-29-3	Production	Acceptable purpose: Disease vector control use in accordance with Part II of this Annex Specific exemption: Intermediate in production of dicofol Intermediate Acceptable purpose: Disease vector control in accordance with Part II of this Annex
	Use	Specific exemption: Production of dicofol Intermediate

ANNEX C
UNINTENTIONAL PRODUCTION

Part I
Persistent organic pollutants subject to the requirements of Article 5

This Annex applies to the following persistent organic pollutants when formed and released unintentionally from anthropogenic sources:

Chemical

Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) Hexachlorobenzene (HCB) (CAS No: 118-74-1) Polychlorinated biphenyls (PCB)

Part II
Source categories

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls are unintentionally formed and released from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. The following industrial source categories have the potential for comparatively high formation and release of these chemicals to the environment:

(a) Waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge;

(b) Cement kilns firing hazardous waste;

(c) Production of pulp using elemental chlorine or chemicals generating elemental chlorine for bleaching;

(d) The following thermal processes in the metallurgical industry:
  (i) Secondary copper production;
  (ii) Sinter plants in the iron and steel industry;
  (iii) Secondary aluminium production;
  (iv) Secondary zinc production.

Part III
Source categories

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls may also be unintentionally formed and released from the following source categories, including:

(a) Open burning of waste, including burning of landfill sites;

(b) Thermal processes in the metallurgical industry not mentioned in Part II;

(c) Residential combustion sources;

(d) Fossil fuel-fired utility and industrial boilers;

(e) Firing installations for wood and other biomass fuels;

(f) Specific chemical production processes releasing unintentionally formed persistent organic pollutants, especially production of chlorophenols and chloranil;

(g) Crematoria;

(h) Motor vehicles, particularly those burning leaded gasoline;

(i) Destruction of animal carcasses;

(j) Textile and leather dyeing (with chloranil) and finishing (with alkaline extraction);

(k) Shredder plants for the treatment of end of life vehicles;

(l) Smouldering of copper cables;

(m) Waste oil refineries.

Part IV
Definitions

1. For the purposes of this Annex:

(a) "Polychlorinated biphenyls" means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms; and

(b) "Polychlorinated dibenzo-p-dioxins" and "polychlorinated dibenzofurans" are tricyclic, aromatic compounds formed by two benzene rings connected by two oxygen atoms in polychlorinated dibenzo-p-dioxins and by one oxygen atom and one carbon-carbon bond in polychlorinated dibenzofurans and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

2. In this Annex, the toxicity of polychlorinated dibenzo-p-dioxins and dibenzofurans is expressed using the concept of toxic equivalency which measures the relative dioxin-like toxic activity of different congeners of polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls in comparison to 2,3,7,8-tetrachlorodibenzo-p-dioxin. The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 1998 mammalian toxic equivalent factor values for polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls. Concentrations are expressed in toxic equivalents.

Part V
General guidance on best available techniques and best environmental practices

This Part provides general guidance to Parties on preventing or reducing releases of the chemicals listed in Part I.

A. General prevention measures relating to both best available and best environmental practices

Priority should be given to the consideration of approaches to prevent the formation and release of the chemicals listed in Part I. Useful measures could include:

(a) The use of low-waste technology;

(b) The use of less hazardous substances;

(c) The promotion of the recovery and recycling of waste and of substances generated and used in a process;

(d) Replacement of feed materials which are persistent organic pollutants or where there is a direct link between the materials and releases of persistent organic pollutants from the source;

(e) Good housekeeping and preventive maintenance programmes;

(f) Improvements in waste management with the aim of the cessation of open and other uncontrolled burning of wastes, including the burning of landfill sites. When considering proposals to construct new waste disposal facilities, consideration should be given to alternatives such as activities to minimize the generation of municipal and medical waste, including resource recovery, reuse, recycling, waste separation and promoting products that generate less waste. Under this approach, public health concerns should be carefully considered;

(g) Minimization of these chemicals as contaminants in products;

(h) Avoiding elemental chlorine or chemicals generating elemental chlorine for bleaching.

B. Best available techniques

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. Appropriate control techniques to reduce releases of the chemicals listed in Part I are in general the same. In determining best available techniques,

special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention:

(a) General considerations:
  (i) The nature, effects and mass of the releases concerned: techniques may vary depending on source size;
  (ii) The commissioning dates for new or existing installations;
  (iii) The time needed to introduce the best available technique;
  (iv) The consumption and nature of raw materials used in the process and its energy efficiency;
  (v) The need to prevent or reduce to a minimum the overall impact of the releases to the environment and the risks to it;
  (vi) The need to prevent accidents and to minimize their consequences for the environment;
  (vii) The need to ensure occupational health and safety at workplaces;
  (viii) Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
  (ix) Technological advances and changes in scientific knowledge and understanding.

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:
  (i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;
  (ii) Treatment of residuals, wastewater, wastes and sewage sludge by, for example, thermal treatment or rendering them inert or chemical processes that detoxify them;
  (iii) Process changes that lead to the reduction or elimination of releases, such as moving to closed systems;
  (iv) Modification of process designs to improve combustion and prevent formation of the chemicals listed in this Annex, through the control of parameters such as incineration temperature or residence time.

C. Best environmental practices

The Conference of the Parties may develop guidance with regard to best environmental practices.

ANNEX D
INFORMATION REQUIREMENTS AND SCREENING CRITERIA

1. A Party submitting a proposal to list a chemical in Annexes A, B and/or C shall identify the chemical in the manner described in subparagraph (a) and provide the information on the chemical, and its transformation products where relevant, relating to the screening criteria set out in subparagraphs (b) to (e):

(a) Chemical identity:
  (i) Names, including trade name or names, commercial name or names and synonyms, Chemical Abstracts Service (CAS) Registry number, International Union of Pure and Applied Chemistry (IUPAC) name; and
  (ii) Structure, including specification of isomers, where applicable, and the structure of the chemical class;

(b) Persistence:
  (i) Evidence that the half-life of the chemical in water is greater than two months, or that its half-life in soil is greater than six months, or that its half-life in sediment is greater than six months; or
  (ii) Evidence that the chemical is otherwise sufficiently persistent to justify its consideration within the scope of this Convention;

(c) Bio-accumulation:
  (i) Evidence that the bio-concentration factor or bio-accumulation factor in aquatic species for the chemical is greater than 5,000 or, in the absence of such data, that the log Kow is greater than 5;
  (ii) Evidence that a chemical presents other reasons for concern, such as high bio-accumulation in other species, high toxicity or ecotoxicity; or
  (iii) Monitoring data in biota indicating that the bio-accumulation potential of the chemical is sufficient to justify its consideration within the scope of this Convention;

(d) Potential for long-range environmental transport:
  (i) Measured levels of the chemical in locations distant from the sources of its release that are of potential concern;
  (ii) Monitoring data showing that long-range environmental transport of the chemical, with the potential for transfer to a receiving environment, may have occurred via air, water or migratory species; or
  (iii) Environmental fate properties and/or model results that demonstrate that the chemical has a potential for long-range environmental transport through air, water or migratory species, with the potential for transfer to a

receiving environment in locations distant from the sources of its release. For a chemical that migrates significantly through the air, its half-life in air should be greater than two days; and

(e) Adverse effects:
  (i) Evidence of adverse effects to human health or to the environment that justifies consideration of the chemical within the scope of this Convention; or
  (ii) Toxicity or ecotoxicity data that indicate the potential for damage to human health or to the environment.

2. The proposing Party shall provide a statement of the reasons for concern including, where possible, a comparison of toxicity or ecotoxicity data with detected or predicted levels of a chemical resulting or anticipated from its long-range environmental transport, and a short statement indicating the need for global control.

3. The proposing Party shall, to the extent possible and taking into account its capabilities, provide additional information to support the review of the proposal referred to in paragraph 6 of Article 8. In developing such a proposal, a Party may draw on technical expertise from any source.

ANNEX E
INFORMATION REQUIREMENTS FOR THE RISK PROFILE

The purpose of the review is to evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted. For this purpose, a risk profile shall be developed that further elaborates on, and evaluates, the information referred to in Annex D and includes, as far as possible, the following types of information:

(a) Sources, including as appropriate:
  (i) Production data, including quantity and location;
  (ii) Uses; and
  (iii) Releases, such as discharges, losses and emissions;

(b) Hazard assessment for the endpoint or endpoints of concern, including a consideration of toxicological interactions involving multiple chemicals;

(c) Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation and transformation to other chemicals. A determination of the bio-concentration factor or bio-accumulation factor, based on measured values, shall be available, except when monitoring data are judged to meet this need;

(d) Monitoring data;

(e) Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability;

f) National and international risk evaluations, assessments or profiles and labelling information and hazard classifications, as available; and

(g) Status of the chemical under international conventions.

ANNEX F
INFORMATION ON SOCIO-ECONOMIC CONSIDERATIONS

An evaluation should be undertaken regarding possible control measures for chemicals under consideration for inclusion in this Convention, encompassing the full range of options, including management and elimination. For this purpose, relevant information should be provided relating to socio-economic considerations associated with possible control measures to enable a decision to be taken by the Conference of the Parties. Such information should reflect due regard for the differing capabilities and conditions among the Parties and should include consideration of the following indicative list of items:

(a) Efficacy and efficiency of possible control measures in meeting risk reduction goals:
  (i) Technical feasibility; and
  (ii) Costs, including environmental and health costs;

(b) Alternatives (products and processes):
  (i) Technical feasibility;
  (ii) Costs, including environmental and health costs;
  (iii) Efficacy;
  (iv) Risk;
  (v) Availability; and
  (vi) Accessibility;

(c) Positive and/or negative impacts on society of implementing possible control measures:
  (i) Health, including public, environmental and occupational health;
  (ii) Agriculture, including aquaculture and forestry;
  (iii) Biota (biodiversity);
  (iv) Economic aspects;
  (v) Movement towards sustainable development; and
  (vi) Social costs;

(d) Waste and disposal implications (in particular, obsolete stocks of pesticides and clean-up of contaminated sites):
(i) Technical feasibility; and
(ii) Cost;
(e) Access to information and public education;
(f) Status of control and monitoring capacity; and
(g) Any national or regional control actions taken, including information on alternatives, and other relevant risk management information.

43. FRAMEWORK CONVENTION ON TOBACCO CONTROL

PREAMBLE

THE PARTIES TO THIS CONVENTION,

Determined to give priority to their right to protect public health,

Recognizing that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for the widest possible international cooperation and the participation of all countries in an effective, appropriate and comprehensive international response,

Reflecting the concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke,

Seriously concerned about the increase in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries, as well as about the burden this places on families, on the poor, and on national health systems,

Recognizing that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases,

Recognizing also that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases,

Acknowledging that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children,

Deeply concerned about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages,

Alarmed by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies,

Deeply concerned about the high levels of smoking and other forms of tobacco consumption by indigenous peoples,

Seriously concerned about the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products,

Recognizing that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting,

Acknowledging that tobacco control at all levels and particularly in developing countries and in countries with economies in transition requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities,

Recognizing the need to develop appropriate mechanisms to address the long-term social and economic implications of successful tobacco demand reduction strategies,

Mindful of the social and economic difficulties that tobacco control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

Conscious of the valuable work being conducted by many States on tobacco control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations in developing measures on tobacco control,

Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,

Recognizing the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts,

Recalling Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to

the enjoyment of the highest attainable standard of physical and mental health,

Recalling also the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

Determined to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations,

Recalling that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care,

Recalling further that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health,

HAVE AGREED AS FOLLOWS:

PART I
INTRODUCTION

Article 1
Use of Terms

For the purposes of this Convention:

(a) "illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;

(b) "regional economic integration organization" means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters;

(c) "tobacco advertising and promotion" means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

(d) "tobacco control" means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;

(e) "tobacco industry" means tobacco manufacturers, wholesale distributors and importers of tobacco products;

(f) "tobacco products" means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;

(g) "tobacco sponsorship" means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.

Article 2
Relationship between this Convention and other Agreements and Legal Instruments

1. In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.

2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

PART II
OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS

Article 3
Objective

The objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Article 4
Guiding Principles

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, *inter alia*, by the principles set out below:

1. Every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke.

2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses, taking into consideration:

(a) the need to take measures to protect all persons from exposure to tobacco smoke;

(b) the need to take measures to prevent the initiation, to promote and support cessation, and to decrease the consumption of tobacco products in any form;

(c) the need to take measures to promote the participation of indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes that are socially and culturally appropriate to their needs and perspectives; and

(d) the need to take measures to address gender-specific risks when developing tobacco control strategies.

3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective tobacco control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.

4. Comprehensive multisectoral measures and responses to reduce consumption of all tobacco products at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to tobacco consumption and exposure to tobacco smoke.

5. Issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control.

6. The importance of technical and financial assistance to aid the economic transition of tobacco growers and workers whose livelihoods are seriously affected as a consequence of tobacco control programmes in developing country Parties, as well as Parties with economies in transition, should be recognized and addressed in the context of nationally developed strategies for sustainable development.

7. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

Article 5
General Obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.

2. Towards this end, each Party shall, in accordance with its capabilities:

(a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and

(b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.

3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.

5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.

6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

PART III
MEASURES RELATING TO THE REDUCTION OF DEMAND FOR TOBACCO

Article 6
Price and Tax Measures to Reduce the Demand for Tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.

2. Without prejudice to the sovereign right of the

Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:

(a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and

(b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.

3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

Article 7
Non-Price Measures to Reduce the Demand for Tobacco

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing tobacco consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

Article 8
Protection from Exposure to Tobacco Smoke

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.

2. Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Article 9
Regulation of the Contents of Tobacco Products

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

Article 10
Regulation of TobaccoProduct Disclosures

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.

Article 11
Packaging and Labelling of Tobacco Products

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:
   (i) shall be approved by the competent national authority,
   (ii) shall be rotating,
   (iii) shall be large, clear, visible and legible,
   (iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,
   (v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term "outside packaging and labelling" in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.

Article 12
Education, Communication, Training and Public Awareness

Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

(a) broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;

(c) public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;

(d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

(e) awareness and participation of public and private agencies and non-governmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and

(f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption.

Article 13
Tobacco Advertising, Promotion and Sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.

2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.

3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.

4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:

(a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;

(c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;

(d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;

(e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio,

television, print media and, as appropriate, other media, such as the internet, within a period of five years; and

(f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.

5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.

6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.

7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.

8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

Article 14
Demand Reduction Measures Concerning Tobacco Dependence and Cessation

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.

2. Towards this end, each Party shall endeavour to:

(a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;

(b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;

(c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and

(d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

PART IV
MEASURES RELATING TO THE REDUCTION OF THE SUPPLY OF TOBACCO

Article 15
Illicit Trade in Tobacco Products

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.

2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:

(a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: *"Sales only allowed in (insert name of the country, subnational, regional or federal unit)"* or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and

(b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.

4. With a view to eliminating illicit trade in tobacco products, each Party shall:

(a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;

(b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;

(c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;

(d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and

(e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.

5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.

6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.

7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

Article 16
Sales to and by Minors

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen. These measures may include:

(a) requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;

(b) banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;

(c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and

(d) ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.

2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.

3. Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.

4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.

5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.

6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.

7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

Article 17
Provision of Support for Economically Viable Alternative Activities

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers.

PART V
PROTECTION OF THE ENVIRONMENT

Article 18
Protection of the Environment and the Health of Persons

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.

PART VI
QUESTIONS RELATED TO LIABILITY

Article 19
Liability

1. For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.

2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:

(a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and

(b) information on legislation and regulations in force as well as pertinent jurisprudence.

3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.

4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.

5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.

PART VII
SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION

Article 20
Research, Surveillance and Exchange of Information

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control. Towards this end, each Party shall:

(a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops; and

(b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.

2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Towards this end, the Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.

3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:

(a) establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators;

(b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global tobacco surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and

(c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of tobacco-related surveillance data.

4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco, which is relevant to this Convention, and in so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:

(a) progressively establish and maintain an updated database of laws and regulations on tobacco control and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global tobacco control;

(b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and

(c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on tobacco production, manufacture and the activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties with economies in transition to meet their commitments on research, surveillance and exchange of information.

Article 21
Reporting and Exchange of Information

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:

(a) information on legislative, executive, administrative or other measures taken to implement the Convention;

(b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;

(c) information, as appropriate, on financial and technical assistance provided or received for tobacco control activities;

(d) information on surveillance and research as specified in Article 20; and

(e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.

2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.

3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.

4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

Article 22
Cooperation in the Scientific, Technical, and Legal Fields and Provision of Related Expertise

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes aiming at, *inter alia*:

(a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to tobacco control;

(b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco control strategies, plans and programmes, aiming at implementation of the Convention through, *inter alia*:

(i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, promotion of cessation and protection from exposure to tobacco smoke;

(ii) assisting, as appropriate, tobacco workers in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and

(iii) assisting, as appropriate, tobacco growers in shifting agricultural production to alternative crops in an economically viable manner;

(c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;

(d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for tobacco control strategies, plans and programmes;

(e) identification of methods for tobacco control, including comprehensive treatment of nicotine addiction; and

(f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of nicotine addiction.

2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

PART VIII
INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES

Article 23
Conference of the Parties

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.

2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.

3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.

4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.

5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:

(a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;

(b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;

(c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;

(d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;

(e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;

(f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;

(g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and

(h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.

6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

Article 24
Secretariat

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.

2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.

3. Secretariat functions shall be:

(a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;

(b) to transmit reports received by it pursuant to the Convention;

(c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;

(d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;

(e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;

(f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and

(g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

Article 25
Relations between the Conference of the Parties and Intergovernmental Organizations

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

Article 26
Financial Resources

1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.

2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.

3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development.

4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.

5. The Parties agree that:

(a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for tobacco control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;

(b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;

(c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and

(d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention.

PART IX
SETTLEMENT OF DISPUTES

Article 27
Settlement of Disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices,

mediation, or conciliation. Failure to reach agreement by good offices, mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.

2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.

3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

PART X
DEVELOPMENT OF THE CONVENTION

Article 28
Amendments to this Convention

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.

2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 29
Adoption and Amendment of Annexes to this Convention

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.

2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.

3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

PART XI
FINAL PROVISIONS

Article 30
Reservations

No reservations may be made to this Convention.

Article 31
Withdrawal

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 32
Right to Vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Article 33
Protocols

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.

2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.

3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.

4. Only Parties to the Convention may be parties to a protocol.

5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.

6. The requirements for entry into force of any protocol shall be established by that instrument.

Article 34
Signature

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at the World Health Organization Headquarters in Geneva from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

Article 35
Ratification, Acceptance, Approval, Formal Confirmation or Accession

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.

3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 36
Entry Into Force

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.

2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

Article 37
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

Article 38
Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at GENEVA this twenty-first of May two thousand and three.

SECTION III

REGIONAL AGREEMENTS

44. ANTARCTIC TREATY

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

Have agreed as follows:

Article I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapon.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

Article II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

Article III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

a. information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy of and efficiency of operations;

b. scientific personnel shall be exchanged in Antarctica between expeditions and stations;

c. scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other technical organizations having a scientific or technical interest in Antarctica.

Article IV

1. Nothing contained in the present Treaty shall be interpreted as:

a. a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;

b. a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

c. prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's rights of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

Article V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

Article VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

Article VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

a. all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

b. all stations in Antarctica occupied by its nationals; and

c. any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

Article VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under subparagraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

Article IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

a. use of Antarctica for peaceful purposes only;

b. facilitation of scientific research in Antarctica;

c. facilitation of international scientific cooperation in Antarctica;

d. facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;

e. questions relating to the exercise of jurisdiction in Antarctica;

f. preservation and conservation of living resources in Antarctica.

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such times as that Contracting Party demonstrates its interest in Antarctica by conducting substantial research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

Article X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

Article XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

Article XII

1. a. The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

b. Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provision of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2. a. If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

b. Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article .

c. If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

Article XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instruments of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

Article XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

45. PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY

PREAMBLE

The States Parties to this Protocol to the Antarctic Treaty, hereinafter referred to as the Parties,

Convinced of the need to enhance the protection of the Antarctic environment and dependent and associated ecosystems;

Convinced of the need to strengthen the Antarctic Treaty system so as to ensure that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Bearing in mind the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty;

Recalling the designation of Antarctica as a Special Conservation Area and other measures adopted under the Antarctic Treaty system to protect the Antarctic environment and dependent and associated ecosystems;

Acknowledging further the unique opportunities Antarctica offers for scientific monitoring of and research on processes of global as well as regional importance;

Reaffirming the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources;

Convinced that the development of a comprehensive regime for the protection of the Antarctic environment and dependent and associated ecosystems is in the interest of mankind as a whole;

Desiring to supplement the Antarctic Treaty to this end;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Protocol:

(a) "The Antarctic Treaty" means the Antarctic Treaty done at Washington on 1 December 1959;

(b) "Antarctic Treaty area" means the area to which the provisions of the Antarctic Treaty apply in accordance with Article VI of that Treaty;

(c) "Antarctic Treaty Consultative Meetings" means the meetings referred to in Article IX of the Antarctic Treaty;

(d) "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty entitled to appoint representatives to participate in the meetings referred to in Article IX of that Treaty;

(e) "Antarctic Treaty system" means the Antarctic Treaty, the measures in effect under that Treaty, its associated separate international instruments in force and the measures in effect under those instruments;

(f) "Arbitral Tribunal" means the Arbitral Tribunal established in accordance with the Schedule to this Protocol, which forms an integral part thereof;

(g) "Committee" means the Committee for Environmental Protection established in accordance with Article 11.

Article 2
Objective and Designation

The Parties commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems and hereby designate Antarctica as a natural reserve, devoted to peace and science.

Article 3
Environmental Principles

1. The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.

2. To this end:

(a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;

(b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:
  (i) adverse effects on climate or weather patterns;
  (ii) significant adverse effects on air or water quality;
  (iii) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;
  (iv) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;
  (v) further jeopardy to endangered or threatened species or populations of such species; or

(vi) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;

(c) activities in the Antarctica Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctic for the conduct of scientific research; such judgments shall take full account of:
(i) the scope of the activity, including its area, duration and intensity;
(ii) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;
(iii) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;
(iv) whether technology and procedures are available to provide for environmentally safe operations;
(v) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and
(vi) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;

(d) regular and effective monitoring shall take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts;

(e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.

3. Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

4. Activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required in accordance with Article VII (5) of the Antarctic Treaty, including associated logistic support activities, shall:
(a) take place in a manner consistent with the principles in this Article; and

(b) be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with those principles.

Article 4
Relationship with the other Components of the Antarctic Treaty System

1. This Protocol shall supplement the Antarctic Treaty and shall neither modify nor amend that Treaty.

2. Nothing in this Protocol shall derogate from the rights and obligations of the Parties to this Protocol under the other international instruments in force within the Antarctic Treaty system.

Article 5
Consistency with the other Components of the Antarctic Treaty System

The Parties shall consult and co-operate with the Contracting Parties to the other international instruments in force within the Antarctic Treaty system and their respective institutions with a view to ensuring the achievement of the objectives and principles of this Protocol and avoiding any interference with the achievement of the objectives and principles of those instruments or any inconsistency between the implementation of those instruments and of this Protocol.

Article 6
Co-Operation

1. The Parties shall co-operate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to:
(a) promote co-operative programmes of scientific, technical and educational value, concerning the protection of the Antarctic environment and dependent and associated ecosystems;

(b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments;

(c) provide to other Parties upon request information relevant to any potential environmental risk and assistance to minimize the effects of accidents which may damage the Antarctic environment or dependent and associated ecosystems;

(d) consult with other Parties with regard to the choice of sites for prospective stations and other facilities so as to avoid the cumulative impacts caused by their excessive concentration in any location;

(e) where appropriate, undertake joint expeditions and share the use of stations and other facilities; and

(f) carry out such steps as may be agreed upon at Antarctic Treaty Consultative Meetings.

2. Each Party undertakes, to the extent possible, to share information that maybe helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.

3. The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

Article 7
Prohibition of Mineral Resource Activities

Any activity relating to mineral resources, other than scientific research, shall be prohibited.

Article 8
Environmental Impact Assessment

1. Proposed activities referred to in paragraph 2 below shall be subject to the procedures set out in Annex I for prior assessment of the impacts of those activities on the Antarctic environment or on dependent or associated ecosystems according to whether those activities are identified as having:

(a) less than a minor or transitory impact;

(b) a minor or transitory impact; or

(c) more than a minor or transitory impact.

2. Each Party shall ensure that the assessment procedures set out in Annex I are applied in the planning processes leading to decisions about any activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities.

3. The assessment procedures set out in Annex I shall apply to any change in an activity whether the change arises from an increase or decrease in the intensity of an existing activity, from the addition of an activity, the decommissioning of a facility, or otherwise.

4. Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.

Article 9
Annexes

1. The Annexes to this Protocol shall form an integral part thereof.

2. Annexes, additional to Annexes I-IV, may be adopted and become effective in accordance with Article IX of the Antarctic Treaty.

3. Amendments and modifications to Annexes may be adopted and become effective in accordance with Article IX of the Antarctic Treaty, provided that any Annex may itself make provision for amendments and modifications to become effective on an accelerated basis.

4. Annexes and any amendments and modifications thereto which have become effective in accordance with paragraphs 2 and 3 above shall, unless an Annex itself provides otherwise in respect of the entry into effect of any amendment or modification thereto, become effective for a Contracting Party to the Antarctic Treaty which is not an Antarctic Treaty Consultative Party, or which was not an Antarctic Treaty Consultative Party at the time of the adoption, when notice of approval of that Contracting Party has been received by the Depositary.

5. Annexes shall, except to the extent that an Annex provides otherwise, be subject to the procedures for dispute settlement set out in Articles 18 to 20.

Article 10
Antarctic Treaty Consultative Meetings

1. Antarctic Treaty Consultative Meetings shall, drawing upon the best scientific and technical advice available:

(a) define, in accordance with the provisions of this Protocol, the general policy for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems; and

(b) adopt measures under Article IX of the Antarctic Treaty for the implementation of this Protocol.

2. Antarctic Treaty Consultative Meetings shall review the work of the Committee and shall draw fully upon its advice and recommendations in carrying out the tasks referred to in paragraph 1 above, as well as upon the advice of the Scientific Committee on Antarctic Research.

Article 11
Committee for Environmental Protection

1. There is hereby established the Committee for Environmental Protection.

2. Each Party shall be entitled to be a member of the Committee and to appoint a representative who may be accompanied by experts and advisers.

3. Observer status in the Committee shall be open to any Contracting Party to the Antarctic Treaty which is not a Party to this Protocol.

4. The Committee shall invite the President of the Scientific Committee on Antarctic Research and the Chairman of the Scientific Committee for the Conservation of Antarctic Marine Living Resources to participate as observers at its sessions. The Committee may also, with the approval of the Antarctic Treaty Consultative Meeting, invite such other relevant scientific, environmental and technical organisations which can contribute to its work to participate as observers at its sessions.

5. The Committee shall present a report on each of its sessions to the Antarctic Treaty Consultative Meeting. The report shall cover all matters considered at the session and shall reflect the views expressed. The report shall be circulated to the Parties and to observers attending the session, and shall thereupon be made publicly available.

6. The Committee shall adopt its rules of procedure which shall be subject to approval by the Antarctic Treaty Consultative Meeting.

Article 12
Functions of the Committee

1. The functions of the Committee shall be to provide advice and formulate recommendations to the Parties in connection with the implementation of this Protocol, including the operation of its Annexes, for consideration at Antarctic Treaty Consultative Meetings, and to perform such other functions as may be referred to it by the Antarctic Treaty Consultative Meetings. In particular, it shall provide advice on:

(a) the effectiveness of measures taken pursuant to this Protocol;

(b) the need to update, strengthen or otherwise improve such measures;

(c) the need for additional measures, including the need for additional Annexes, where appropriate;

(d) the application and implementation of the environmental impact assessment procedures set out in Article 8 and Annex I;

(e) means of minimising or mitigating environmental impacts of activities in the Antarctic Treaty area;

(f) procedures for situations requiring urgent action, including response action in environmental emergencies;

(g) the operation and further elaboration of the Antarctic Protected Area system;

(h) inspection procedures, including formats for inspection reports and checklists for the conduct of inspections;

(i) the collection, archiving, exchange and evaluation of information related to environmental protection;

(j) the state of the Antarctic environment; and

(k) the need for scientific research, including environmental monitoring, related to the implementation of this Protocol.

2. In carrying out its functions, the Committee shall, as appropriate, consult with the Scientific Committee on Antarctic Research, the Scientific Committee for the Conservation of Antarctic Marine Living Resources and other relevant scientific, environmental and technical organizations.

Article 13
Compliance with this Protocol

1. Each Party shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with this Protocol.

2. Each Party shall exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to this Protocol.

3. Each Party shall notify all other Parties of the measures it takes pursuant to paragraphs 1 and 2 above.

4. Each Party shall draw the attention of all other Parties to any activity which in its opinion affects the implementation of the objectives and principles of this Protocol.

5. The Antarctic Treaty Consultative Meetings shall draw the attention of any State which is not a Party to this Protocol to any activity undertaken by that State, its agencies, instrumentalities, natural or juridical persons, ships, aircraft or other means of transport which affects the implementation of the objectives and principles of this Protocol.

Article 14
Inspection

1. In order to promote the protection of the Antarctic environment and dependent and associated ecosystems, and to ensure compliance with this Protocol, the Antarctic Treaty Consultative Parties shall arrange, individually or collectively, for inspections by observers to be made in accordance with Article VII of the Antarctic Treaty.

2. Observers are:

(a) observers designated by any Antarctic Treaty Consultative Party who shall be nationals of that Party; and

(b) any observers designated at Antarctic Treaty Consultative Meetings to carry out inspections under procedures to be established by an Antarctic Treaty Consultative Meeting.

3. Parties shall co-operate fully with observers undertaking inspections, and shall ensure that during inspections, observers are given access to all parts of stations, installations, equipment, ships and aircraft open to inspection under Article VII (3) of the Antarctic Treaty, as well as to all records maintained thereon which are called for pursuant to this Protocol.

4. Reports of inspections shall be sent to the Parties whose stations, installations, equipment, ships or aircraft are covered by the reports. After those Parties have been given the opportunity to comment, the reports and any comments thereon shall be circulated to all the Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and thereafter made publicly available.

Article 15
Emergency Response Action

1. In order to respond to environmental emergencies in the Antarctic Treaty area, each Party agrees to:

(a) provide for prompt and effective response action to such emergencies which might arise in the performance of scientific research programmes, tourism and all other governmental and nongovernmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities; and

(b) establish contingency plans for response to incidents with potential adverse effects on the Antarctic environment or dependent and associated ecosystems.

2. To this end, the Parties shall:

(a) co-operate in the formulation and implementation of such contingency plans; and

(b) establish procedures for immediate notification of, and co-operative response to, environmental emergencies.

3. In the implementation of this Article, the Parties shall draw upon the advice of the appropriate international organisations.

Article 16
Liability

Consistent with the objectives of this Protocol for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, the Parties undertake to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol. Those rules and procedures shall be included in one or more Annexes to be adopted in accordance with Article 9 (2).

Article 17
Annual Report by Parties

1. Each Party shall report annually on the steps taken to implement this Protocol. Such reports shall include notifications made in accordance with Article 13 (3), contingency plans established in accordance with Article 15 and any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation and exchange of information.

2. Reports made in accordance with paragraph 1 above shall be circulated to all Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and made publicly available.

Article 18
Dispute Settlement

If a dispute arises concerning the interpretation or application of this Protocol, the parties to the dispute shall, at the request of any one of them, consult among themselves as soon as possible with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means to which the parties to the dispute agree.

Article 19
Choice of Dispute Settlement Procedure

1. Each Party, when signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, may choose, by written declaration, one or both of the following means for the settlement of disputes concerning the interpretation or application of Articles 7, 8 and 15 and, except to the extent that an Annex provides otherwise, the provisions of any Annex and, insofar as it relates to these Articles and provisions, Article 13:

(a) the International Court of Justice;

(b) the Arbitral Tribunal.

2. A declaration made under paragraph 1 above shall not affect the operation of Article 18 and Article 20(2).

3. A Party which has not made a declaration under paragraph 1 above or in respect of which a declaration is no longer in force shall be deemed to have accepted the competence of the Arbitral Tribunal.

4. If the parties to a dispute have accepted the same means for the settlement of a dispute, the dispute may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same means for the settlement of a dispute, or if they have both accepted both means, the dispute may be submitted only to the Arbitral Tribunal, unless the parties otherwise agree.

6. A declaration made under paragraph 1 above shall remain in force until it expires in accordance with its terms or until three months after written notice of revocation has been deposited with the Depositary.

7. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the Arbitral Tribunal, unless the parties to the dispute otherwise agree.

8. Declarations and notices referred to in this Article shall be deposited with the Depositary who shall transmit copies thereof to all Parties.

Article 20
Dispute Settlement Procedure

1. If the parties to a dispute concerning the interpretation or application of Articles 7, 8 or 15 or, except to the extent that an Annex provides otherwise, the provisions of any Annex or, insofar as it relates to these Articles and provisions, Article 13, have not agreed on a means for resolving it within 12 months of the request for consultation pursuant to Article 18, the dispute shall be referred, at the request of any party to the dispute, for settlement in accordance with the procedure determined by Article 19 (4) and (5).

2. The Arbitral Tribunal shall not be competent to decide or rule upon any matter within the scope of Article IV of the Antarctic Treaty. In addition, nothing in this Protocol shall be interpreted as conferring competence or jurisdiction on the International Court of Justice or any other tribunal established for the purpose of settling disputes between Parties to decide or otherwise rule upon any matter within the scope of Article IV of the Antarctic Treaty.

Article 21
Signature

This Protocol shall be open for signature at Madrid on the 4th of October 1991 and thereafter at Washington until the 3rd of October 1992 by any State which is a Contracting Party to the Antarctic Treaty.

Article 22
Ratification, Acceptance, Approval or Accession

1. This Protocol is subject to ratification, acceptance or approval by signatory States.

2. After the 3rd of October 1992 this Protocol shall be open for accession by any State which is a Contracting Party to the Antarctic Treaty.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of the United States of America, hereby designated as the Depositary.

4. After the date on which this Protocol has entered into force, the Antarctic Treaty Consultative Parties shall not act upon a notification regarding the entitlement of a Contracting Party to the Antarctic Treaty to appoint representatives to participate in Antarctic Treaty Consultative Meetings in accordance with Article IX (2) of the Antarctic Treaty unless that Contracting Party has first ratified, accepted, approved or acceded to this Protocol.

Article 23
Entry Into Force

1. This Protocol shall enter into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the date on which this Protocol is adopted.

2. For each Contracting Party to the Antarctic Treaty which, subsequent to the date of entry into force of this Protocol, deposits an instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the thirtieth day following such deposit.

Article 24
Reservations

Reservations to this Protocol shall not be permitted.

Article 25
Modification or Amendment

1. Without prejudice to the provisions of Article 9, this Protocol may be modified or amended at any time in accordance with the procedures set forth in Article XII (1) (a) and (b) of the Antarctic Treaty.

2. If, after the expiration of 50 years from the date of entry into force of this Protocol, any of the Antarctic Treaty Consultative Parties so requests by a communication addressed to the Depositary, a conference shall be held as soon as practicable to review the operation of this Protocol.

3. A modification or amendment proposed at any Review Conference called pursuant to paragraph 2 above shall be adopted by a majority of the Parties, including 3/4 of the States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.

4. A modification or amendment adopted pursuant to paragraph 3 above shall enter into force upon ratification, acceptance, approval or accession by 3/4 of the Antarctic Treaty Consultative Parties, including ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.

5.(a) With respect to Article 7, the prohibition on Antarctic mineral resource activities contained therein shall continue unless there is in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable. This regime shall fully safeguard the interests of all States referred to in Article IV of the Antarctic Treaty and apply the principles

thereof. Therefore, if a modification or amendment to Article 7 is proposed at a Review Conference referred to in paragraph 2 above, it shall include such a binding legal regime.

(b) If any such modification or amendment has not entered into force within 3 years of the date of its adoption, any Party may at any time thereafter notify to the Depositary of its withdrawal from this Protocol, and such withdrawal shall take effect 2 years after receipt of the notification by the Depositary.

Article 26
Notifications by the Depositary

The Depositary shall notify all Contracting Parties to the Antarctic Treaty of the following:

(a) signatures of this Protocol and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date of entry into force of this Protocol and any additional Annex thereto;

(c) the date of entry into force of any amendment or modification to this Protocol;

(d) the deposit of declarations and notices pursuant to Article 19; and

(e) any notification received pursuant to Article 25 (5) (b).

Article 27
Authentic Texts and Registration with the United Nations

1. This Protocol, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to all Contracting Parties to the Antarctic Treaty.

2. This Protocol shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

SCHEDULE TO THE PROTOCOL
ARBITRATION

Article 1

1. The Arbitral Tribunal shall be constituted and shall function in accordance with the Protocol, including this Schedule.

2. The Secretary referred to in this Schedule is the Secretary General of the Permanent Court of Arbitration.

Article 2

1. Each Party shall be entitled to designate up to three Arbitrators, at least one of whom shall be designated within three months of the entry into force of the Protocol for that Party. Each Arbitrator shall be experienced in Antarctic affairs, have thorough knowledge of international law and enjoy the highest reputation for fairness, competence and integrity. The names of the persons so designated shall constitute the list of Arbitrators. Each Party shall at all times maintain the name of at least one Arbitrator on the list.

2. Subject to paragraph 3 below, an Arbitrator designated by a Party shall remain on the list for a period of five years and shall be eligible for redesignation by that Party for additional five year periods.

3. A Party which designated an Arbitrator may withdraw the name of that Arbitrator from the list. If an Arbitrator dies or if a Party for any reason withdraws from the list the name of an Arbitrator designated by it, the Party which designated the Arbitrator in question shall notify the Secretary promptly. An Arbitrator whose name is withdrawn from the list shall continue to serve on any Arbitral Tribunal to which that Arbitrator has been appointed until the completion of proceedings before the Arbitral Tribunal.

4. The Secretary shall ensure that an up-to-date list is maintained of the Arbitrators designated pursuant to this Article.

Article 3

1. The Arbitral Tribunal shall be composed of three Arbitrators who shall be appointed as follows:

(a) The party to the dispute commencing the proceedings shall appoint one Arbitrator, who may be its national, from the list referred to in Article 2. This appointment shall be included in the notification referred to in Article 4.

(b) Within 40 days of the receipt of that notification, the other party to the dispute shall appoint the second Arbitrator, who may be its national, from the list referred to in Article 2.

(c) Within 60 days of the appointment of the second Arbitrator, the parties to the dispute shall appoint by agreement the third Arbitrator from the list referred to in Article 2.
The third Arbitrator shall not be either a national of a party to the dispute, or a person designated for the list referred to in Article 2 by a party to the dispute, or of the same nationality as either of the first two Arbitrators. The third Arbitrator shall be the Chairperson of the Arbitral Tribunal.

(d) If the second Arbitrator has not been appointed within the prescribed period, or if the parties to the dispute have not reached agreement within the prescribed period on the appointment of the third Arbitrator, the Arbitrator or Arbitrators shall be appointed, at the request of any party to the

dispute and within 30 days of the receipt of such request, by the President of the International Court of Justice from the list referred to in Article 2 and subject to the conditions prescribed in subparagraphs (b) and (c) above. In performing the functions accorded him or her in this subparagraph, the President of the Court shall consult the parties to the dispute.

(e) If the President of the International Court of Justice is unable to perform the functions accorded him or her in subparagraph (d) above or is a national of a party to the dispute, the functions shall be performed by the Vice-President of the Court, except that if the Vice-President is unable to perform the functions or is a national of a party to the dispute the functions shall be performed by the next most senior member of the Court who is available and is not a national of a party to the dispute.

2. Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. In any dispute involving more than two Parties, those Parties having the same interest shall appoint one Arbitrator by agreement within the period specified in paragraph 1 (b) above.

Article 4

The party to the dispute commencing proceedings shall so notify the other party or parties to the dispute and the Secretary in writing. Such notification shall include a statement of the claim and the grounds on which it is based. The notification shall be transmitted by the Secretary to all Parties.

Article 5

1. Unless the parties to the dispute agree otherwise, arbitration shall take place at The Hague, where the records of the Arbitral Tribunal shall be kept. The Arbitral Tribunal shall adopt its own rules of procedure. Such rules shall ensure that each party to the dispute has a full opportunity to be heard and to present its case and shall also ensure that the proceedings are conducted expeditiously.

2. The Arbitral Tribunal may hear and decide counterclaims arising out of the dispute.

Article 6

1. The Arbitral Tribunal, where it considers that prima facie it has jurisdiction under the Protocol, may:

(a) at the request of any party to a dispute, indicate such provisional measures as it considers necessary to preserve the respective rights of the parties to the dispute;

(b) prescribe any provisional measures which it considers appropriate under the circumstances to prevent serious harm to the Antarctic environment or dependent or associated ecosystems.

2. The parties to the dispute shall comply promptly with any provisional measures prescribed under paragraph 1 (b) above pending an award under Article 10.

3. Notwithstanding the time period in Article 20 of the Protocol, a party to a dispute may at any time, by notification to the other party or parties to the dispute and to the Secretary in accordance with Article 4, request that the Arbitral Tribunal be constituted as a matter of exceptional urgency to indicate or prescribe emergency provisional measures in accordance with this Article. In such case, the Arbitral Tribunal shall be constituted as soon as possible in accordance with Article 3, except that the time periods in Article 3 (1) (b), (c) and (d) shall be reduced to 14 days in each case. The Arbitral Tribunal shall decide upon the request for emergency provisional measures within two months of the appointment of its Chairperson.

4. Following a decision by the Arbitral Tribunal upon a request for emergency provisional measures in accordance with paragraph 3 above, settlement of the dispute shall proceed in accordance with Articles 18, 19 and 20 of the Protocol.

Article 7

Any Party which believes it has a legal interest, whether general or individual,which may be substantially affected by the award of an Arbitral Tribunal, may,unless the Arbitral Tribunal decides otherwise, intervene in the proceedings.

Article 8

The parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in particular, in accordance with their law and using all means at their disposal, shall provide it with all relevant documents and information, and enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 9

If one of the parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, any other party to the dispute may request the Arbitral Tribunal to continue the proceedings and make its award.

Article 10

1. The Arbitral Tribunal shall, on the basis of the provisions of the Protocol and other applicable rules and principles of international law that are not incompatible with such provisions, decide such disputes as are submitted to it.

2. The Arbitral Tribunal may decide, ex aequo et bono, a dispute submitted to it, if the parties to the dispute so agree.

Article 11

1. Before making its award, the Arbitral Tribunal shall satisfy itself that it has competence in respect of the

dispute and that the claim or counterclaim is well founded in fact and law.

2. The award shall be accompanied by a statement of reasons for the decision and shall be communicated to the Secretary who shall transmit it to all Parties.

3. The award shall be final and binding on the parties to the dispute and on any Party which intervened in the proceedings and shall be complied with without delay. The Arbitral Tribunal shall interpret the award at the request of a party to the dispute or of any intervening Party.

4. The award shall have no binding force except in respect of that particular case.

5. Unless the Arbitral Tribunal decides otherwise, the expenses of the Arbitral Tribunal, including the remuneration of the Arbitrators, shall be borne by the parties to the dispute in equal shares.

Article 12

All decisions of the Arbitral Tribunal, including those referred to in Articles 5, 6 and 11, shall be made by a majority of the Arbitrators who may not abstain from voting.

Article 13

1. This Schedule may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.

2. Any amendment or modification of this Schedule which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

46.1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION

The Parties to the present Convention,

Determined to promote relations and cooperation in the field of environmental protection,

Aware of the significance of the activities of the United Nations Economic Commission for Europe in strengthening such relations and co-operation, particularly in the field of air pollution including long-range transport of air pollutants,

Recognizing the contribution of the Economic Commission for Europe to the multilateral implementation of the pertinent provisions of the Final Act of the Conference on Security and Cooperating in Europe,

Cognizant of the references in the chapter on environment of the Final Act of the Conference on Security and Co-operation in Europe calling for co-operation to control air pollution and its effects, including long-range transport of air pollutants, and to the development through international co-operation of an extensive programme for the monitoring and evaluation of long-range transport of air pollutants, starting with sulphur dioxide and with possible extension to other pollutants,

Considering the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which expresses the common conviction that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Recognizing the existence of possible adverse effects, in the short and long term, of air pollution including transboundary air pollution,

Concerned that a rise in the level of emission of air pollutants within the region as forecast may increase such adverse effects,

Recognizing the need to study the implications of the long-range transport of air pollutants and the need to seek solutions for the problems identified,

Affirming their willingness to reinforce active international co-operation to develop appropriate national policies and by means of exchange of information, consultation, research and monitoring, to co-ordinate national action for combating air pollution including long-range transboundary air pollution,

Have agreed as follows:

Article 1
DEFINITIONS

For the purpose of the present Convention:

a) "air pollution" means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and "air pollutants" shall be construed accordingly;

b) "long-range transboundary air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one State and which has adverse effects in the area under the jurisdiction of another State at such a distance that it is not generally possible to distinguish the contribution of individual emission sources or groups of sources.

Article 2
FUNDAMENTAL PRINCIPLES

The Contracting Parties, taking due account of the facts and problems involved, are determined to protect man and his environment against air pollution and shall endeavour to limit and, as far as possible, gradually reduce and prevent air pollution including long-range transboundary pollution.

Article 3

The Contracting Parties, within the framework of the present Convention, shall by means of exchanges of information, consultation, research and monitoring, develop without undue delay policies and strategies which shall serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels.

Article 4

The Contracting Parties shall exchange information on and review their policies, scientific activities and technical measures aimed at combating, as far as possible, the discharge of air pollutants, which may have adverse effects, thereby contributing to the reduction of air pollution including long-range transboundary air pollution.

Article 5

Consultations shall be held, upon request, at an early stage between, on the one hand, Contracting Parties which are actually affected by or exposed to a significant risk of long-range transboundary air

pollution and, on the other hand, Contracting Parties within which and subject to whose jurisdiction a significant contribution to long-range transboundary air pollution originates, or could originate, in connexion with activities carried on or contemplated therein.

Article 6
AIR QUALITY MANAGEMENT

Taking into account articles 2 to 5, the ongoing research, exchange of information and monitoring and the results thereof, the cost and effectiveness of local and other remedies and, in order to combat air pollution in particular that originating from new or rebuilt installations, each Contracting Party undertakes to develop the best policies and strategies including air quality management systems, and, as part of them, control measures compatible with balanced development, in particular by using the best available technology which is economically.

Article 7
RESEARCH AND DEVELOPMENT

The Contracting Parties, as appropriate to their needs, shall initiate and co-operate in the conduct of research into and/or development of:

a) existing and proposed technologies for reducing emissions of sulphur compounds and other major air pollutants, including technical and economic feasibility, and environmental consequences;

b) instrumentation and other techniques for monitoring and measuring emission rates and ambient concentrations of air pollutants;

c) improved models for a better understanding of the transmission of long-range transboundary air pollutants;

d) the effects of sulphur compounds and other major air pollutants on human health and the environment, including agriculture, forestry, materials, aquatic and other natural ecosystems and visibility, with a view to establishing a scientific basis for dose/effect relationships designed to protect the environment;

e) the economic, social and environmental assessment of alternative measures for attaining environmental objectives including the reduction of long-range transboundary air pollution;

f) education and training programmes related to the environmental aspects of pollution by sulphur compounds and other major air pollutants.

Article 8
EXCHANGE OF INFORMATION

The Contracting Parties, within the framework of the Executive Body referred to in article 10 and bilaterally, shall, in their common interests, exchange available information on:

a) data on emission at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size- or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon;

b) major changes in national policies and in general industrial development, and their potential impact, which would be likely to cause significant changes in long-range transboundary air pollution;

c) control technologies for reducing air pollution relevant to long-range transboundary air pollution;

d) the projected cost of the emission control or sulphur compounds and other major air pollutants on a national scale;

e) meteorological and physico-chemical data relating to the processes during transmission;

f) physico-chemical and biological data relating to the effects of long-range transboundary air pollution and the extent of the damage 1 which these data indicate can be attributed to long-range;

g) national, subregional and regional policies and strategies for the control of sulphur compounds and other major oil pollutants.

Article 9
IMPLEMENTATION AND FURTHER DEVELOPMENT OF THE COOPERATIVE PROGRAMME FOR THE MONITORING AND EVALUATION OF THE LONG-RANGE TRANSMISSION OF AIR POLLUTANTS IN EUROPE

The Contracting Parties stress the need for the implementation of the existing "Co-operative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe" (hereinafter referred to as EMEP) and with regard to the further development of this programme, agree to emphasize:

a) the desirability of Contracting Parties joining in and fully implementing EMEP which, as a first step, is based on the monitoring of sulphur dioxide and related substances;

b) the need to use comparable or standardized procedures for monitoring whenever possible;

c) the desirability of basing the monitoring programme on the framework of both national and international programmes. The establishment of monitoring stations and the collection of data shall be carried out under the national jurisdiction of the country in which the monitoring stations are located; co-operative environmental monitoring programme, based on and taking into account

present and future national, subregional regional and other international programmes;

e) the need to exchange data on emissions at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size; or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon. The method including the model, used to determine the fluxesas well as the method, including the model, used to determine the transmission of air pollutants, based on the emissions per grid-unit, shall be made available and periodically reviewed, in order to improve the methods and the models;

f) their willingness to continue the exchange and periodic updating of national data on total emissions of agreed air pollutants, starting with sulphur dioxide;

g) the need to provide meteorological and physico-chemical data relating to processes during transmission;

h) the need to monitor chemical components in other media such as water, soil and vegetation, as well as a similar monitoring programme to record effects on health and environment;

i) the desirability of extending the national EMEP networks to make them operational for control and surveillance purposes.

Article 10
EXECUTIVE BODY

1. The representatives of the Contracting Parties shall, within the Problems, constitute the Executive Body of the present Convention, and shall meet at least annually in that capacity.

2. The Executive Body shall:
a) review the implementation of the present Convention;

b) establish, as appropriate, working groups to consider matters related to the implementation and development of the present Convention and to this end to prepare appropriate studies and other documentation and to submit recommendations to be considered by the Executive Body;

c) fulfil such other functions as may be appropriate under the provisions of the present Convention.

3. The Executive Body shall utilize the Steering Body for the EMEP to play an integral part in the operation of the present Convention, in particular with regard to data collection and scientific cooperation.

4. The Executive Body, in discharging its functions, shall, when it deems appropriate, also make use of information from other relevant international organizations.

Article 11
SECRETARIAT

The Executive Secretary of the Economic Commission for Europe shall carry out, for the Executive Body, the following secretariat functions:
a) to convene and prepare the meetings of the Executive Body;

b) to transmit to the Contracting Parties reports and other information received in accordance with the provisions of the present Convention;

c) to discharge the functions assigned by the Executive Body.

Article 12
AMENDMENTS TO THE CONVENTION

1. Any Contracting Party may propose amendments to the present Convention.

2. The text of proposed amendments shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate them to all Contracting Parties. The Executive Body shall discuss proposed amendments at its next annual meeting provided that such proposals have been circulated by the Executive Secretary of the Economic Commission for Europe to the Contracting Parties at least ninety days in advance.

3. An amendment to the present Convention shall be adopted by consensus of the representatives of the Contracting Parties, and shall enter into force for the Contracting Parties which have accepted it on the ninetieth day after the date on which two-thirds of the Contracting Parties have deposited their instruments of acceptance with the depositary. Thereafter, the amendment shall enter into force for any other Contracting Party on the ninetieth day after the date on which that Contracting Party deposits its instrument of acceptance of the amendment.

Article 13
SETTLEMENT OF DISPUTES

If a dispute arises between two or more Contracting Parties to the present Convention as to the interpretation or application of the Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

Article 14
SIGNATURE

1. The present Convention shall be open for signature

at the United Nations Office at Geneva from 13 to 16 November 1979 on the occasion of the High-level Meeting within the framework of the Economic Commission for Europe on the Protection of the Environment, by the member States of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe, pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Economic Commission for Europe, which have competence in respect of the negotiation conclusion and application of international agreements in matters covered by the present Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Convention attributes to their member States. In such cases, the member States of these organizations shall not be entitled.to exercise such rights individually.

Article 15
RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Convention shall be subject to ratification, acceptance or approval.

2. The present Convention shall be open for accession as from 17 November 1979 by the States and organizations referred to in article 14 paragraph 1.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of the depositary.

Article 16
ENTRY INTO FORCE

1. The present Convention shall enter into force on the ninetieth day after the date of deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession.

2. For each Contracting Party which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the twenty-fourth instrument of ratification, acceptance approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

Article 17
WITHDRAWAL

At any time after five years from the date on which the present Convention has come into force with respect to a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the depositary.

Article 18
AUTHENTIC TEXTS

The original of the present Convention of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Convention.

DONE AT Geneva, this thirteenth day of November, one thousand nine hundred and seventy nine.

Protocols to the Convention

The Convention has been extended by eight protocols:

The 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone; 31 Signatories and 8 ratifications. Not yet in force (03.2004).

The 1998 Aarhus Protocol on Persistent Organic Pollutants (POPs). Entered into force on 23 October 2003.

The 1998 Aarhus Protocol on Heavy Metals. Entered into force on 29 December 2003.

The 1994 Oslo Protocol on Further Reduction of Sulphur Emissions. Entered into force 5 August 1998.
The 1991 Geneva Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes. Entered into force 29 September 1997.

The 1988 Sofia Protocol concerning the Control of Nitrogen Oxides or their Transboundary Fluxes. Entered into force 14 February 1991.

The 1985 Helsinki Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent. Entered into force 2 September 1987.

The 1984 Geneva Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP). Entered into force 28 January 1988.

47. CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

With amendment attached

The Parties to this Convention,

Aware of the interrelationship between economic activities and their environmental consequences,

Affirming the need to ensure environmentally sound and sustainable development,

Determined to enhance international co-operation in assessing environmental impact in particular in a transboundary context,

Mindful of the need and importance to develop anticipatory policies and of preventing, mitigating and monitoring significant adverse environmental impact in general and more specifically in a transboundary context,

Recalling the relevant provisions of the Charter of the United Nations, the Declaration of the Stockholm Conference on the Human Environment, the Final Act of the Conference on Security and Co-operation in Europe (CSCE) and the Concluding Documents of the Madrid and Vienna Meetings of Representatives of the Participating States of the CSCE,

Commending the ongoing activities of States to ensure that, through their national legal and administrative provisions and their national policies, environmental impact assessment is carried out,

Conscious of the need to give explicit consideration to environmental factors at an early stage in the decision-making process by applying environmental impact assessment, at all appropriate administrative levels, as a necessary tool to improve the quality of information presented to decision makers so that environmentally sound decisions can be made paying careful attention to minimizing significant adverse impact, particularly in a transboundary context,

Mindful of the efforts of international organizations to promote the use of environmental impact assessment both at the national and international levels, and taking into account work on environmental impact assessment carried out under the auspices of the United Nations Economic Commission for Europe, in particular results achieved by the Seminar on Environmental Impact Assessment (September 1987, Warsaw, Poland) as well as noting the Goals and Principles on environmental impact assessment adopted by the Governing Council of the United Nations Environment Programme, and the Ministerial Declaration on Sustainable Development (May 1990, Bergen, Norway),

Have agreed as follows:

Article 1
Definitions

For the purposes of this Convention,

(i) "Parties" means, unless the text otherwise indicates, the Contracting Parties to this Convention;

(ii) "Party of origin" means the Contracting Party or Parties to this Convention under whose jurisdiction a proposed activity is envisaged to take place;

(iii) "Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity;

(iv) "Concerned Parties" means the Party of origin and the affected Party of an environmental impact assessment pursuant to this Convention;

(v) "Proposed activity" means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure;

(vi) "Environmental impact assessment" means a national procedure for evaluating the likely impact of a proposed activity on the environment;

(vii) "Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(viii) "Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party;

(ix) "Competent authority" means the national authority or authorities designated by a Party as responsible for performing the tasks covered by this Convention and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity;

(x) "The Public" means one or more natural or legal persons.

Article 2
General Provisions

1. The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.

2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation described in Appendix II.

3. The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.

4. The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.

5. Concerned Parties shall, at the initiative of any such Party, enter into discussions on whether one or more proposed activities not listed in "appendix1"Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. Where those Parties so agree, the activity or activities shall be thus treated. General guidance for identifying criteria to determine significant adverse impact is set forth in Appendix III.

6. The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

7. Environmental impact assessments as required by this Convention shall, as a minimum requirement, be undertaken at the project level of the proposed activity. To the extent appropriate, the Parties shall endeavour to apply the principles of environmental impact assessment to policies, plans and programmes.

8. The provisions of this Convention shall not affect the right of Parties to implement national laws, regulations, administrative provisions or accepted legal practices protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security.

9. The provisions of this Convention shall not affect the right of particular Parties to implement, by bilateral or multilateral agreement where appropriate, more stringent measures than those of this Convention.

10. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to activities having or likely to have a transboundary impact.

Article 3
Notification

1. For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

2. This notification shall contain, inter alia:

(a) Information on the proposed activity, including any available information on its possible transboundary impact;

(b) The nature of the possible decision; and

(c) An indication of a reasonable time within which a response under paragraph 3 of this Article is required, taking into account the nature of the proposed activity; and may include the information set out in paragraph 5 of this Article.

3. The affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the environmental impact assessment procedure.

4. If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or if it does not respond within the time specified in the notification, the provisions in paragraphs 5, 6, 7 and 8 of this Article and in Articles 4 to 7 will not apply. In such circumstances the right of a Party of origin to determine whether to carry out an environmental impact assessment on the basis of its national law and practice is not prejudiced.

5. Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:

(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and

(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.

6. An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.

7. When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. If those Parties agree that there is likely to be a significant adverse transboundary impact, the provisions of this Convention shall apply accordingly. If those Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of Appendix IV to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.

8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.

Article 4
Preparation of the Environmental Impact Assessment Documentation

1. The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in Appendix II.

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

Article 5
Consultations on the Basis of the Environmental Impact Assessment Documentation

The Party of origin shall, after completion of the environmental impact assessment documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact. Consultations may relate to:

(a) Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin;

(b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and

(c) Any other appropriate matters relating to the proposed activity.

The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.

Article 6
Final Decision

1. The Parties shall ensure that, in the final decision on the proposed activity, due account is taken of the outcome of the environmental impact assessment, including the environmental impact assessment documentation, as well as the comments thereon received pursuant to Article 3, paragraph 8 and Article 4, paragraph 2, and the outcome of the consultations as referred to in Article 5.

2. The Party of origin shall provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.

3. If additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to a concerned Party before work on that activity commences, that Party shall immediately inform the other concerned Party or Parties. If one of the concerned Parties so requests, consultations shall be held as to whether the decision needs to be revised.

Article 7
Post-Project Analysis

1. The concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Any post-project analysis undertaken shall include, in particular, the surveillance of the

activity and the determination of any adverse transboundary impact. Such surveillance and determination may be undertaken with a view to achieving the objectives listed in Appendix V.

2. When, as a result of post-project analysis, the Party of origin or the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, it shall immediately inform the other Party. The concerned Parties shall then consult on necessary measures to reduce or eliminate the impact.

Article 8
Bilateral and Multilateral Co-Operation

The Parties may continue existing or enter into new bilateral or multilateral agreements or other arrangements in order to implement their obligations under this Convention. Such agreements or other arrangements may be based on the elements listed in Appendix VI.

Article 9
Research Programmes

The Parties shall give special consideration to the setting up, or intensification of, specific research programmes aimed at:

(a) Improving existing qualitative and quantitative methods for assessing the impacts of proposed activities;

(b) Achieving a better understanding of cause-effect relationships and their role in integrated environmental management;

(c) Analysing and monitoring the efficient implementation of decisions on proposed activities with the intention of minimizing or preventing impacts;

(d) Developing methods to stimulate creative approaches in the search for environmentally sound alternatives to proposed activities, production and consumption patterns;

(e) Developing methodologies for the application of the principles of environmental impact assessment at the macro-economic level.

The results of the programmes listed above shall be exchanged by the Parties.

Article 10
Status of the Appendices

The Appendices attached to this Convention form an integral part of the Convention.

Article 11
Meeting of Parties

1. The Parties shall meet, so far as possible, in connection with the annual sessions of the Senior Advisers to ECE Governments on Environmental and Water Problems. The first meeting of the Parties shall be convened not later than one year after the date of the entry into force of this Convention. Thereafter, meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

2. The Parties shall keep under continuous review the implementation of this Convention, and, with this purpose in mind, shall:

(a) Review the policies and methodological approaches to environmental impact assessment by the Parties with a view to further improving environmental impact assessment procedures in a transboundary context;

(b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the use of environmental impact assessment in a transboundary context to which one or more of the Parties are party;

(c) Seek, where appropriate, the services of competent international bodies and scientific committees in methodological and technical aspects pertinent to the achievement of the purposes of this Convention;

(d) At their first meeting, consider and by consensus adopt rules of procedure for their meetings;

(e) Consider and, where necessary, adopt proposals for amendments to this Convention;

(f) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

Article 12
Right to Vote

1. Each Party to this Convention shall have one vote.

2. Except as provided for in paragraph 1 of this Article, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 13
Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

(a) The convening and preparing of meetings of the Parties;

(b) The transmission of reports and other information received in accordance with the provisions of this Convention to the Parties; and

(c) The performance of other functions as may be provided for in this Convention or as may be determined by the Parties.

Article 14
Amendments to the Convention

1. Any Party may propose amendments to this Convention.

2. Proposed amendments shall be submitted in writing to the secretariat, which shall communicate them to all Parties. The proposed amendments shall be discussed at the next meeting of the Parties, provided these proposals have been circulated by the secretariat to the Parties at least ninety days in advance.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. Amendments to this Convention adopted in accordance with paragraph 3 of this Article shall be submitted by the Depositary to all Parties for ratification, approval or acceptance. They shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. The voting procedure set forth in paragraph 3 of this Article is not intended to constitute a precedent for future agreements negotiated within the Economic Commission for Europe.

Article 15
Settlement of Disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in Appendix VII.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this Article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 16
Signature

This Convention shall be open for signature at Espoo (Finland) from 25 February to 1 March 1991 and thereafter at United Nations Headquarters in New York until 2 September 1991 by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of the Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 17
Ratification, Acceptance, Approval and Accession

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.

2. This Convention shall be open for accession as from 3 September 1991 by the States and organizations referred to in Article 16.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who shall perform the functions of Depositary.

4. Any organization referred to in Article 16 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

5. In their instruments of ratification, acceptance, approval or accession, the regional economic

integration organizations referred to in Article 16 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any relevant modification to the extent of their competence.

Article 18
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in Article 16 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 19
Withdrawal

At any time after four years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from this Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary. Any such withdrawal shall not affect the application of Articles 3 to 6 of this Convention to a proposed activity in respect of which a notification has been made pursuant to Article 3, paragraph 1, or a request has been made pursuant to Article 3, paragraph 7, before such withdrawal took effect.

Article 20
Authentic Texts

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Espoo (Finland), this twenty-fifth day of February one thousand nine hundred and ninety-one.

DECISION II/14
AMENDMENT TO THE ESPOO CONVENTION

Adopted at 27 February 2001, not yet in force

The Meeting,

Wishing to modify the Espoo Convention with a view to clarifying that the public that may participate in procedures under the Convention includes civil society and, in particular, nongovernmental organizations,

Recalling paragraph 13 of the Oslo Declaration of the Ministers of the Environment and the European Community Commissioner for the Environment assembled at Oslo on the occasion of the first meeting of the Parties to the Espoo Convention,

Wishing to allow States situated outside the UN/ECE region to become Parties to the Convention,

Adopts the following amendments to the Convention:

(a) At the end of Article 1 (x), after persons insert

and, in accordance with national legislation or practice, their associations, organizations or groups

(b) In Article 17, after paragraph 2, insert a new paragraph reading

3. Any other State, not referred to in paragraph 2 of this Article, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties. The Meeting of the Parties shall not consider or approve any request for accession by such a State until this paragraph has entered into force for all the States and organizations that were Parties to the Convention on 27 February 2001.

and renumber the remaining paragraphs accordingly.

(c) At the end of Article 17, insert a new paragraph reading

7. Any State or organization that ratifies, accepts or approves this Convention shall be deemed simultaneously to ratify, accept or approve the amendment to the Convention set out in decision II/14 taken at the second meeting of the Parties.

48. PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT

The Parties to this Protocol,

Recognizing the importance of integrating environmental, including health, considerations into the preparation and adoption of plans and programmes and, to the extent appropriate, policies and legislation,

Committing themselves to promoting sustainable development and therefore basing themselves on the conclusions of the United Nations Conference on Environment and Development (Rio de Janeiro, Brazil, 1992), in particular principles 4 and 10 of the Rio Declaration on Environment and Development and Agenda 21, as well as the outcome of the third Ministerial Conference on Environment and Health (London, 1999) and the World Summit on Sustainable Development (Johannesburg, South Africa, 2002),

Bearing in mind the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo, Finland, on 25 February 1991, and decision II/9 of its Parties at Sofia on 26 and 27 February 2001, in which it was decided to prepare a legally binding protocol on strategic environmental assessment,

Recognizing that strategic environmental assessment should have an important role in the preparation and adoption of plans, programmes, and, to the extent appropriate, policies and legislation, and that the wider application of the principles of environmental impact assessment to plans, programmes, policies and legislation will further strengthen the systematic analysis of their significant environmental effects,

Acknowledging the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998, and taking note of the relevant paragraphs of the Lucca Declaration, adopted at the first meeting of its Parties,

Conscious, therefore, of the importance of providing for public participation in strategic environmental assessment,

Acknowledging the benefits to the health and well-being of present and future generations that will follow if the need to protect and improve people's health is taken into account as an integral part of strategic environmental assessment, and recognizing the work led by the World Health Organization in this respect,

Mindful of the need for and importance of enhancing international cooperation in assessing the transboundary environmental, including health, effects of proposed plans and programmes, and, to the extent appropriate, policies and legislation,

Have agreed as follows:

Article 1
Objective

The objective of this Protocol is to provide for a high level of protection of the environment, including health, by:

(a) Ensuring that environmental, including health, considerations are thoroughly taken into account in the development of plans and programmes;

(b) Contributing to the consideration of environmental, including health, concerns in the preparation of policies and legislation;

(c) Establishing clear, transparent and effective procedures for strategic environmental assessment;

(d) Providing for public participation in strategic environmental assessment; and

(e) Integrating by these means environmental, including health, concerns into measures and instruments designed to further sustainable development.

Article 2
Definitions

For the purposes of this Protocol,

1. "Convention" means the Convention on Environmental Impact Assessment in a Transboundary Context.

2. "Party" means, unless the text indicates otherwise, a Contracting Party to this Protocol.

3. "Party of origin" means a Party or Parties to this Protocol within whose jurisdiction the preparation of a plan or programme is envisaged.

4. "Affected Party" means a Party or Parties to this Protocol likely to be affected by the transboundary environmental, including health, effects of a plan or programme.

5. "Plans and programmes" means plans and programmes and any modifications to them that are:

(a) Required by legislative, regulatory or administrative provisions; and

(b) Subject to preparation and/or adoption by an authority or prepared by an authority for adoption, through a formal procedure, by a parliament or a government.

6. "Strategic environmental assessment" means the evaluation of the likely environmental, including health, effects, which comprises the determination of the scope of an environmental report and its preparation, the carrying-out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

7. "Environmental, including health, effect" means any effect on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, natural sites, material assets, cultural heritage and the interaction among these factors.

8. "The public" means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups.

Article 3
General Provisions

1. Each Party shall take the necessary legislative, regulatory and other appropriate measures to implement the provisions of this Protocol within a clear, transparent framework.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in matters covered by this Protocol.

3. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental, including health, protection in the context of this Protocol.

4. The provisions of this Protocol shall not affect the right of a Party to maintain or introduce additional measures in relation to issues covered by this Protocol.

5. Each Party shall promote the objectives of this Protocol in relevant international decision-making processes and within the framework of relevant international organizations.

6. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Protocol shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

7. Within the scope of the relevant provisions of this Protocol, the public shall be able to exercise its rights without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Article 4
Field of Application Concerning Plans and Programmes

1. Each Party shall ensure that a strategic environmental assessment is carried out for plans and programmes referred to in paragraphs 2, 3 and 4 which are likely to have significant environmental, including health, effects.

2. A strategic environmental assessment shall be carried out for plans and programmes which are prepared for agriculture, forestry, fisheries, energy, industry including mining, transport, regional development, waste management, water management, telecommunications, tourism, town and country planning or land use, and which set the framework for future development consent for projects listed in annex I and any other project listed in annex II that requires an environmental impact assessment under national legislation.

3. For plans and programmes other than those subject to paragraph 2 which set the framework for future development consent of projects, a strategic environmental assessment shall be carried out where a Party so determines according to article 5, paragraph 1.

4. For plans and programmes referred to in paragraph 2 which determine the use of small areas at local level and for minor modifications to plans and programmes referred to in paragraph 2, a strategic environmental assessment shall be carried out only where a Party so determines according to article 5, paragraph 1.

5. The following plans and programmes are not subject to this Protocol:

(a) Plans and programmes whose sole purpose is to serve national defence or civil emergencies;

(b) Financial or budget plans and programmes.

Article 5
Screening

1. Each Party shall determine whether plans and programmes referred to in article 4, paragraphs 3 and 4, are likely to have significant environmental, including health, effects either through a case-by-case examination or by specifying types of plans and programmes or by combining both approaches. For this purpose each Party shall in all cases take into account the criteria set out in annex III.

2. Each Party shall ensure that the environmental and health authorities referred to in article 9, paragraph 1, are consulted when applying the procedures referred to in paragraph 1 above.

3. To the extent appropriate, each Party shall endeavour to provide opportunities for the participation of the public concerned in the screening of plans and programmes under this article.

4. Each Party shall ensure timely public availability of the conclusions pursuant to paragraph 1, including the reasons for not requiring a strategic environmental assessment, whether by public notices or by other appropriate means, such as electronic media.

Article 6
Scoping

1. Each Party shall establish arrangements for the determination of the relevant information to be included in the environmental report in accordance with article 7, paragraph 2.

2. Each Party shall ensure that the environmental and health authorities referred to in article 9, paragraph 1, are consulted when determining the relevant information to be included in the environmental report.

3. To the extent appropriate, each Party shall endeavour to provide opportunities for the participation of the public concerned when determining the relevant information to be included in the environmental report.

Article 7
Environmental Report

1. For plans and programmes subject to strategic environmental assessment, each Party shall ensure that an environmental report is prepared.

2. The environmental report shall, in accordance with the determination under article 6, identify, describe and evaluate the likely significant environmental, including health, effects of implementing the plan or programme and its reasonable alternatives. The report shall contain such information specified in annex IV as may reasonably be required, taking into account:

(a) Current knowledge and methods of assessment;

(b) The contents and the level of detail of the plan or programme and its stage in the decision-making process;

(c) The interests of the public; and

(d) The information needs of the decision-making body.

3. Each Party shall ensure that environmental reports are of sufficient quality to meet the requirements of this Protocol.

Article 8
Public Participation

1. Each Party shall ensure early, timely and effective opportunities for public participation, when all options are open, in the strategic environmental assessment of plans and programmes.

2. Each Party, using electronic media or other appropriate means, shall ensure the timely public availability of the draft plan or programme and the environmental report.

3. Each Party shall ensure that the public concerned, including relevant non-governmental organizations, is identified for the purposes of paragraphs 1 and 4.

4. Each Party shall ensure that the public referred to in paragraph 3 has the opportunity to express its opinion on the draft plan or programme and the environmental report within a reasonable time frame.

5. Each Party shall ensure that the detailed arrangements for informing the public and consulting the public concerned are determined and made publicly available. For this purpose, each Party shall take into account to the extent appropriate the elements listed in annex V.

Article 9
Consultation with Environmental and Health Authorities

1. Each Party shall designate the authorities to be consulted which, by reason of their specific environmental or health responsibilities, are likely to be concerned by the environmental, including health, effects of the implementation of the plan or programme.

2. The draft plan or programme and the environmental report shall be made available to the authorities referred to in paragraph 1.

3. Each Party shall ensure that the authorities referred to in paragraph 1 are given, in an early, timely and effective manner, the opportunity to express their opinion on the draft plan or programme and the environmental report.

4. Each Party shall determine the detailed arrangements for informing and consulting the environmental and health authorities referred to in paragraph 1.

Article 10
Transboundary Consultations

1. Where a Party of origin considers that the implementation of a plan or programme is likely to have significant transboundary environmental, including health, effects or where a Party likely to be significantly affected so requests, the Party of origin shall as early as possible before the adoption of the plan or programme notify the affected Party.

2. This notification shall contain, inter alia:

(a) The draft plan or programme and the environmental report including information on its possible transboundary environmental, including health, effects; and

(b) Information regarding the decision-making procedure, including an indication of a reasonable time schedule for the transmission of comments.

3. The affected Party shall, within the time specified in the notification, indicate to the Party of origin whether it wishes to enter into consultations before the adoption of the plan or programme and, if it so indicates, the Parties concerned shall enter into consultations concerning the likely transboundary environmental, including health, effects of implementing the plan or programme and the measures envisaged to prevent, reduce or mitigate adverse effects.

4. Where such consultations take place, the Parties concerned shall agree on detailed arrangements to ensure that the public concerned and the authorities referred to in article 9, paragraph 1, in the affected

Party are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame.

Article 11
Decision

1. Each Party shall ensure that when a plan or programme is adopted due account is taken of:

(a) The conclusions of the environmental report;

(b) The measures to prevent, reduce or mitigate the adverse effects identified in the environmental report; and

(c) The comments received in accordance with articles 8 to 10.

2. Each Party shall ensure that, when a plan or programme is adopted, the public, the authorities referred to in article 9, paragraph 1, and the Parties consulted according to article 10 are informed, and that the plan or programme is made available to them together with a statement summarizing how the environmental, including health, considerations have been integrated into it, how the comments received in accordance with articles 8 to 10 have been taken into account and the reasons for adopting it in the light of the reasonable alternatives considered.

Article 12
Monitoring

1. Each Party shall monitor the significant environmental, including health, effects of the implementation of the plans and programmes, adopted under article 11 in order, inter alia, to identify, at an early stage, unforeseen adverse effects and to be able to undertake appropriate remedial action.

2. The results of the monitoring undertaken shall be made available, in accordance with national legislation, to the authorities referred to in article 9, paragraph 1, and to the public.

Article 13
Policies and Legislation

1.Each Party shall endeavour to ensure that environmental, including health, concerns are considered and integrated to the extent appropriate in the preparation of its proposals for policies and legislation that are likely to have significant effects on the environment, including health.

2. In applying paragraph 1, each Party shall consider the appropriate principles and elements of this Protocol.

3. Each Party shall determine, where appropriate, the practical arrangements for the consideration and integration of environmental, including health, concerns in accordance with paragraph 1, taking into account the need for transparency in decision-making.

4. Each Party shall report to the Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol on its application of this article.

Article 14
The Meeting of the Parties to the Convention Serving as the Meeting of the Parties to the Protocol

1. The Meeting of the Parties to the Convention shall serve as the Meeting of the Parties to this Protocol. The first meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol shall be convened not later than one year after the date of entry into force of this Protocol, and in conjunction with a meeting of the Parties to the Convention, if a meeting of the latter is scheduled within that period. Subsequent meetings of the Parties to the Convention serving as the Meeting of the Parties to this Protocol shall be held in conjunction with meetings of the Parties to the Convention, unless otherwise decided by the Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol.

2. Parties to the Convention which are not Parties to this Protocol may participate as observers in the proceedings of any session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol. When the Meeting of the Parties to the Convention serves as the Meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by the Parties to this Protocol.

3. When the Meeting of the Parties to the Convention serves as the Meeting of the Parties to this Protocol, any member of the Bureau of the Meeting of the Parties representing a Party to the Convention that is not, at that time, a Party to this Protocol shall be replaced by another member to be elected by and from amongst the Parties to this Protocol.

4. The Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and, for this purpose, shall:

(a) Review policies for and methodological approaches to strategic environmental assessment with a view to further improving the procedures provided for under this Protocol;

(b) Exchange information regarding experience gained in strategic environmental assessment and in the implementation of this Protocol;

(c) Seek, where appropriate, the services and cooperation of competent bodies having expertise pertinent to the achievement of the purposes of this Protocol;

(d) Establish such subsidiary bodies as it considers necessary for the implementation of this Protocol;

(e) Where necessary, consider and adopt proposals for amendments to this Protocol; and

(f) Consider and undertake any additional action, including action to be carried out jointly under this Protocol and the Convention, that may be required for the achievement of the purposes of this Protocol.

5. The rules of procedure of the Meeting of the Parties to the Convention shall be applied mutatis mutandis under this Protocol, except as may otherwise be decided by consensus by the Meeting of the Parties serving as the Meeting of the Parties to this Protocol.

6. At its first meeting, the Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol shall consider and adopt the modalities for applying the procedure for the review of compliance with the Convention to this Protocol.

7. Each Party shall, at intervals to be determined by the Meeting of the Parties to the Convention serving as the Meeting of the Parties to this Protocol, report to the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on measures that it has taken to implement the Protocol.

Article 15
Relationship to other International Agreements

The relevant provisions of this Protocol shall apply without prejudice to the UNECE Conventions on Environmental Impact Assessment in a Transboundary Context and on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Article 16
Right to Vote

1. Except as provided for in paragraph 2 below, each Party to this Protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 17
Secretariat

The secretariat established by article 13 of the Convention shall serve as the secretariat of this Protocoland article 13, paragraphs (a) to (c), of the Convention on the functions of the secretariat shall apply mutatis mutandis to this Protocol.

Article 18
Annexes

The annexes to this Protocol shall constitute an integral part thereof.

Article 19
Amendments to the Protocol

1. Any Party may propose amendments to this Protocol.

2. Subject to paragraph 3, the procedure for proposing, adopting and the entry into force of amendments to the Convention laid down in paragraphs 2 to 5 of article 14 of the Convention shall apply, mutatis mutandis, to amendments to this Protocol.

3. For the purpose of this Protocol, the three fourths of the Parties required for an amendment to enter into force for Parties having ratified, approved or accepted it, shall be calculated on the basis of the number of Parties at the time of the adoption of the amendment.

Article 20
Settlement of Disputes

The provisions on the settlement of disputes of article 15 of the Convention shall apply mutatis mutandis to this Protocol.

Article 21
Signature

This Protocol shall be open for signature at Kiev (Ukraine) from 21 to 23 May 2003 and thereafter at United Nations Headquarters in New York until 31 December 2003, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraphs 8 and 11 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Protocol, including the competence to enter into treaties in respect of these matters.

Article 22
Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Protocol.

Article 23
Ratification, Acceptance, Approval and Accession

1. This Protocol shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations referred to in article 21.

2. This Protocol shall be open for accession as from 1 January 2004 by the States and regional economic integration organizations referred to in article 21.

3. Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Protocol upon approval by the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol.

4. Any regional economic integration organization referred to in article 21 which becomes a Party to this Protocol without any of its member States being a Party shall be bound by all the obligations under this Protocol. If one or more of such an organization's member States is a Party to this Protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and its member States shall not be entitled to exercise rights under this Protocol concurrently.

5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 21 shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary of any relevant modification to the extent of their competence.

Article 24
Entry into Force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 above, any instrument deposited by a regional economic integration organization referred to in article 21 shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or regional economic integration organization referred to in article 21 which ratifies, accepts or approves this Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

4. This Protocol shall apply to plans, programmes, policies and legislation for which the first formal preparatory act is subsequent to the date on which this Protocol enters into force. Where the Party under whose jurisdiction the preparation of a plan, programme, policy or legislation is envisaged is one for which paragraph 3 applies, this Protocol shall apply to plans, programmes, policies and legislation for which the first formal preparatory act is subsequent to the date on which this Protocol comes into force for that Party.

Article 25
Withdrawal

At any time after four years from the date on which this Protocol has come into force with respect to a party, that Party may withdraw from the Protocol by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary. Any such withdrawal shall not affect the application of articles 5 to 9, 11 and 13 with respect to a strategic environmental assessment under this Protocol which has already been started, or the application of article 10 with respect to a notification or request which has already been made, before such withdrawal takes effect.

Article 26
Authentic Texts

The original of this Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE at Kiev (Ukraine), this twenty-first day of May, two thousand and three.

ANNEX I
List of projects as referred to in article 4, paragraph 2

1. Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 metric tons or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. Installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.
4. Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 metric tons of finished product; for friction material, with an annual production of more than 50 metric tons of finished product; and for other asbestos utilization of more than 200 metric tons per year.
6. Integrated chemical installations.
7. Construction of motorways, express roads*/ and lines for long-distance railway traffic and of airports**/ with a basic runway length of 2,100 metres or more.
8. Large-diameter oil and gas pipelines.
9. Trading ports and also inland waterways and ports

for inland-waterway traffic which permit the passage of vessels of over 1,350 metric tons.
10. Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes.
11. Large dams and reservoirs.
12. Groundwater abstraction activities in cases where the annual volume of water to be abstracted amounts to 10 million cubic metres or more.
13. Pulp and paper manufacturing of 200 air-dried metric tons or more per day.
14. Major mining, on-site extraction and processing of metal ores or coal.
15. Offshore hydrocarbon production.
16. Major storage facilities for petroleum, petrochemical and chemical products.
17. Deforestation of large areas.

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*/ For the purposes of this Protocol:
- "Motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:
(a) Is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other by a dividing strip not intended for traffic or, exceptionally, by other means;
(b) Does not cross at level with any road, railway or tramway track, or footpath; and
(c) Is specially sign posted as a motorway.

- "Express road" means a road reserved for motor traffic accessible only from interchanges or controlled junctions and on which, in particular, stopping and parking are prohibited on the running carriageway(s).
**/ For the purposes of this Protocol, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (annex 14).

ANNEX II
Any other projects referred to in article 4, paragraph 2

1. Projects for the restructuring of rural land holdings.
2. Projects for the use of uncultivated land or seminatural areas for intensive agricultural purposes.
3. Water management projects for agriculture, including irrigation and land drainage projects.
4. Intensive livestock installations (including poultry).
5. Initial afforestation and deforestation for the purposes of conversion to another type of land use.
6. Intensive fish farming.
7. Nuclear power stations and other nuclear reactors*/ including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile materials whose maximum power does not exceed 1 kilowatt continuous thermal load), as far as not included in annex I.
8. Construction of overhead electrical power lines with a voltage of 220 kilovolts or more and a length of 15 kilometres or more and other projects for the transmission of electrical energy by overhead cables.
9. Industrial installations for the production of electricity, steam and hot water.
10. Industrial installations for carrying gas, steam and hot water.
11. Surface storage of fossil fuels and natural gas.
12. Underground storage of combustible gases.
13. Industrial briquetting of coal and lignite.
14. Installations for hydroelectric energy production.
15. Installations for the harnessing of wind power for energy production (wind farms).
16. Installations, as far as not included in annex I, designed:
– For the production or enrichment of nuclearfuel;
– For the processing of irradiated nuclear fuel;
– For the final disposal of irradiated nuclear fuel;
– Solely for the final disposal of radioactive waste;
– Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels in a different site than the production site; or
– For the processing and storage of radioactive waste.
17. Quarries, open cast mining and peat extraction, as far as not included in annex I.
18. Underground mining, as far as not included in annex I.
19. Extraction of minerals by marine or fluvial dredging.
20. Deep drillings (in particular geothermal drilling, drilling for the storage of nuclear waste material, drilling for water supplies), with the exception of drillings for investigating the stability of the soil.
21. Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.
22. Integrated works for the initial smelting of cast iron and steel, as far as not included in annex I.
23. Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting.
24. Installations for the processing of ferrous metals (hotrolling mills, smitheries with hammers, application of protective fused metal coats).
25. Ferrous metal foundries.
26. Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes, as far as not included in annex I.
27. Installations for the smelting, including the alloyage, of non-ferrous metals excluding precious metals, including recovered products (refining, foundry casting, etc.), as far as not included in annex I.
28. Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process.

29. Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines.
30. Shipyards.
31. Installations for the construction and repair of aircraft.
32. Manufacture of railway equipment.
33. Swaging by explosives.
34. Installations for the roasting and sintering of metallic ores.
35. Coke ovens (dry coal distillation).
36. Installations for the manufacture of cement.
37. Installations for the manufacture of glass including glass fibre.
38. Installations for smelting mineral substances including the production of mineral fibres.
39. Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.
40. Installations for the production of chemicals ortreatment of intermediate products, as far as not included in annex I.
41. Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides.
42. Installations for the storage of petroleum, petrochemical, or chemical products, as far as not included in annex I.
43. Manufacture of vegetable and animal oils and fats.
44. Packing and canning of animal and vegetable products.
45. Manufacture of dairy products.
46. Brewing and malting.
47. Confectionery and syrup manufacture.
48. Installations for the slaughter of animals.
49. Industrial starch manufacturing installations.
50. Fish-meal and fish-oil factories.
51. Sugar factories.
52. Industrial plants for the production of pulp, paper and board, as far as not included in annex I.
53. Plants for the pre treatment or dyeing of fibres or textiles.
54. Plants for the tanning of hides and skins.
55. Cellulose-processing and production installations.
56. Manufacture and treatment of elastomer-based products.
57. Installations for the manufacture of artificial mineral fibres.
58. Installations for the recovery or destruction of explosive substances.
59. Installations for the production of asbestos and the manufacture of asbestos products, as far as not included in annex I.
60. Knackers' yards.
61. Test benches for engines, turbines or reactors.
62. Permanent racing and test tracks for motorized vehicles.
63. Pipelines for transport of gas or oil, as far as not included in annex I.
64. Pipelines for transport of chemicals with a diameter of more than 800 mm and a length of more than 40 km.
65. Construction of railways and intermodal transhipment facilities, and of intermodal terminals, as far as not included in annex I.
66. Construction of tramways, elevated and underground railways, suspended lines or similar lines of a particular type used exclusively or mainly for passenger transport.
67. Construction of roads, including realignment and/or widening of any existing road, as far as not included in annex I.
68. Construction of harbours and port installations, including fishing harbours, as far as not included in annex I.
69. Construction of inland waterways and ports for inland-waterway traffic, as far as not included in annex I.
70. Trading ports, piers for loading and unloading connected to land and outside ports, as far as not included in annex I.
71. Canalization and flood-relief works.
72. Construction of airports**/ and airfields, as far as not included in annex I.
73. Waste-disposal installations (including landfill), as far as not included in annex I.
74. Installations for the incineration or chemical treatment of non-hazardous waste.
75. Storage of scrap iron, including scrap vehicles.
76. Sludge deposition sites.
77. Groundwater abstraction or artificial groundwater recharge, as far as not included in annex I.
78. Works for the transfer of water resources between river basins.
79. Waste-water treatment plants.
80. Dams and other installations designed for the holding back or for the long-term or permanent storage of water, as far as not included in annex I.
81. Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works.
82. Installations of long-distance aqueducts.
83. Ski runs, ski lifts and cable cars and associated developments.
84. Marinas.
85. Holiday villages and hotel complexes outside urban areas and associated developments.
86. Permanent campsites and caravan sites.
87. Theme parks.
88. Industrial estate development projects.
89. Urban development projects, including the construction of shopping centres and car parks.
90. Reclamation of land from the sea.

*/ For the purposes of this Protocol, nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

**/ For the purposes of this Protocol, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (annex 14).

49. BAMAKO CONVENTION ON THE BAN OF THE IMPORT INTO AFRICA AND THE CONTROL OF TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN AFRICA

PREAMBLE

The Parties to this Convention,

1. Mindful of the growing threat to human health and the environment posed by the increased generation and the complexity of hazardous wastes,

2. Further mindful that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

3. Aware of the risk of damage to human health and the environment caused by transboundary movements of hazardous wastes,

4. Reiterating that States should ensure that the generator should carry out his responsibilities with regard to the transport and disposal of hazardous wastes in a manner that is consistent with the protection of human health and environment, whatever the place of disposal,

5. Recalling relevant chapters of the Charter of the Organisation of African Unity (OAU) on environmental protection, the African Charter for Human and Peoples' Rights, Chapter IX of the Lagos Plan of Action and other Recommendations adopted by the Organisation of African Unity on the environment,

6. Further recognizing the sovereignty of States to ban the importation into, and the transit through, their territory, of hazardous wastes and substances for human health and environmental reasons,

7. Recognizing also the increasing mobilization in Africa for the prohibition of transboundary movements of hazardous wastes and their disposal in African countries,

8. Convinced that hazardous wastes should, as far as is compatible with environmentally sound and efficient management, be disposed in the State where they were generated,

9. Convinced that the effective control and minimization of transboundary movements of hazardous wastes will act as an incentive, in Africa and elsewhere, for the reduction of the volume of the generation of such wastes,

10. Noting that a number of international and regional agreements deal with the problem of the protection and preservation of the environment with regard to the transit of dangerous goods,

11. Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by Decision 14/30 of 17 June, 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), the Charter of Human Rights, relevant recommendations, declarations, instruments and regulations adopted within the United Nations System, the relevant articles of the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal which allow for the establishment of regional agreements which may be equal to or stronger than its own provisions, Article 39 of the Lome' IV Convention relating to the international movement of hazardous wastes and radioactive wastes, African intergovernmental organisations and the work and studies done within other international and regional organisations,

12. Mindful of the spirit, principles, aims and functions of the African Convention on the Conservation of Nature and Natural Resources adopted by the African Heads of State and Government in Algiers (1968) and the World Charter for Nature adopted by the General Assembly of the United Nations at its Thirty-seventh Session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

13. Concerned by the problem of transboundary traffic in hazardous wastes,

14. Recognizing the need to promote the development of clean production methods, including clean technologies, for the sound management of hazardous wastes produced in Africa, in particular, to avoid, minimize and eliminate the generation of such wastes,

15. Recognizing also that where necessary hazardous wastes should be transported in accordance with relevant international conventions and recommendations,

16. Determined to protect, by strict control, the human health of the African population and the environment against the adverse effects which may result from the generation of hazardous wastes,

17. Affirming a commitment also to responsibly address the problem of hazardous wastes originating within the Continent of Africa,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purpose of this Convention:

1. "Wastes" are substances or materials which are disposed of, or are intended to be disposed of, or are required to be disposed of by the provisions of national law;

2. "Hazardous wastes" means wastes as specified in Article 2 of this Convention;

3. "Management" means the prevention and reduction of hazardous wastes and the collection, transport, storage, and treatment either for the reuse or disposal, of hazardous wastes including after-care of disposal sites;

4. "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of any State to or through an area under the national jurisdiction of another State, or to or through an area not under the national jurisdiction of another State, provided at least two States are involved in the movement;

5. "Clean production methods" means production or industrial systems which avoid, or eliminate the generation of hazardous wastes and hazardous products in conformity with Article 4, section 3 (f) and (g) of this Convention;

6. "Disposal" means any operation specified in Annex III to this Convention;

7. "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorised or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

8. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes and any information related to it, and for responding to such a notification, as provided in Article 6 of this Convention;

9. "Focal point" means the entity of a Party referred to in Article 5 of this Convention responsible for receiving and submitting information as provided for in Articles 13 and 16;

10. "Environmentally sound management of hazardous wastes" means taking all practicable steps to ensure that hazardous wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

11. "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;

12. "State of export" means a State from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;

13. "State of import" means a State to which a transboundary movement is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

14. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;

15. "States concerned" means States of export or import, or transit states, whether or not Parties;

16. "Person" means any natural or legal person;

17. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;

18. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;

19. "Carrier" means any person who carries out the transport of hazardous wastes;

20. "Generator" means any person whose activity produces hazardous wastes, or, if that person is not known, the person who is in possession and/or control of those wastes;

21. "Disposer" means any person to whom hazardous wastes are shipped and who carries out the disposal of such wastes;

22. "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9 of this Convention;

23. "Dumping at sea" means the deliberate disposal of hazardous wastes at sea from vessels, aircraft, platforms or other man- made structures at sea, and includes ocean incineration and disposal into the seabed and sub-seabed.

Article 2
Scope of the Convention

1. The following substances shall be "hazardous wastes" for the purposes of this convention:

(a) Wastes that belong to any category contained in Annex I of this Convention;

(b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of import or transit;

(c) Wastes which possess any of the characteristics contained in Annex II of this Convention;

(d) Hazardous substances which have been banned, cancelled or refused registration by government regulatory action, or voluntarily withdrawn from registration in the country of manufacture, for human health or environmental reasons.

2. Wastes which, as a result of being radioactive, are subject to any international control systems, including international instruments, applying specifically to radioactive materials, are included in the scope of this Convention.

3. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, shall not fall within the scope of this convention.

Article 3
National Definitions of Hazardous Wastes

1. Each State shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annex I of this Convention, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to Paragraph 1 of this Article.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under Paragraph 3 of this Article available to their exporters and other appropriate bodies.

Article 4
General Obligations

1. Hazardous Waste Import Ban

All Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the import of all hazardous wastes, for any reason, into Africa from non-Contracting Parties. Such import shall be deemed illegal and a criminal act. All Parties shall:

(a) Forward as soon as possible, all information relating to such illegal hazardous waste import activity to the Secretariat who shall distribute the information to all Contracting Parties;

(b) Co-operate to ensure that no imports of hazardous wastes from a non-Party enter a Party to this Convention. To this end, the Parties shall, at the Conference of the Contracting Parties, consider other enforcement mechanisms.

2. Ban on Dumping of Hazardous Wastes at Sea and Internal Waters

(a) Parties in conformity with related international conventions and instruments shall, in the exercise of their jurisdiction within their internal waters, territorial seas, exclusive economic zones and continental shelf, adopt legal, administrative and other appropriate measures to control all carriers from non-Parties, and prohibit the dumping at sea of hazardous wastes, including their incineration at sea and their disposal in the seabed and sub-seabed. Any dumping of hazardous wastes at sea, including incineration at sea as well as seabed and sub-seabed disposal, by Contracting Parties, whether in internal waters, territorial seas, exclusive economic zones or high seas shall be deemed to be illegal;

(b) Parties shall forward, as soon as possible, all information relating to dumping of hazardous wastes to the Secretariat which shall distribute the information to all Contracting Parties.

3. Waste Generation in Africa
Each Party Shall:

(a) Ensure that hazardous waste generators submit to the Secretariat reports regarding the wastes that they generate in order to enable the Secretariat of the Convention to produce a complete hazardous waste audit;

(b) Impose strict, unlimited liability as well as joint and several liability on hazardous waste generators;

(c) Ensure that the generation of hazardous wastes within the area under its jurisdiction is reduced to a minimum taking into account social, technological and economic aspects;

(d) Ensure the availability of adequate treatment and/or disposal facilities, for the environmentally sound management of hazardous wastes which shall be located, to the extent possible, within its jurisdiction;

(e) Ensure that persons involved in the management of hazardous wastes within its jurisdiction take such steps as are necessary to prevent pollution

arising from such wastes and, if such pollution occurs, to minimize the consequence thereof for human health and the environment;

The Adoption of Precautionary Measures:

(f) Each Party shall strive to adopt and implement the preventive, precautionary approach to pollution problems which entails, inter-alia, preventing the release into the environment of substances which may cause harm to humans or the environment without waiting for scientific proof regarding such harm. The Parties shall co-operate with each other in taking the appropriate measures to implement the precautionary principle to pollution prevention through the application of clean production methods, rather than the pursuit of a permissible emissions approach based on assimilative capacity assumptions;

(g) In this respect Parties shall promote clean production methods applicable to entire product life cycles including:

* raw material selection, extraction and processing;
* product conceptualisation, design, manufacture and assemblage;
* materials transport during all phases;
* industrial and household usage;
* reintroduction of the product into industrial systems or nature when it no longer serves a useful function;

Clean production shall not include "end-of-pipe" pollution controls such as filters and scrubbers, or chemical, physical or biological treatment. Measures which reduce the volume of waste by incineration or concentration, mask the hazard by dilution, or transfer pollutants from one environmental medium to another, are also excluded;

(h) The issue of preventing the transfer to Africa of polluting technologies shall be kept under systematic review by the Secretariat of the Conference and periodic reports shall be made to the Conference of the Parties;

Obligations in the Transport and Transboundary Movement of Hazardous Wastes from Contracting Parties;

(i) Each Party shall prevent the export of hazardous wastes to States which have prohibited by their legislation or international agreement all such imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(j) A Party shall not permit hazardous wastes to be exported to a State which does not have the facilities for disposing of them in an environmentally sound manner;

(k) Each Party shall ensure that hazardous wastes to be exported are managed in an environmentally sound manner in the State of import and transit. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting;

(l) The Parties agree not to allow the export of hazardous wastes for disposal within the area South of 60 degrees South Latitude, whether or not such wastes are subject to transboundary movement;

(m) Furthermore, each Party shall:

(i) Prohibit all persons under its national jurisdiction from transporting, storing or disposing of hazardous wastes unless such persons are authorized or allowed to perform such operations;

(ii) Ensure that hazardous wastes that are to be the subject of a transboundary movement are packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is relevant internationally recognized practices;

(iii) Ensure that hazardous wastes be accompanied by a movement document, containing information specified in Annex IV B, from the point at which a transboundary movement commences to the point of disposal;

(n) Parties shall take the appropriate measures to ensure that the transboundary movements of hazardous wastes only are allowed if:

(i) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(ii) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention;

(o) Under this Convention, the obligation of States in which hazardous wastes are generated, requiring that those wastes are managed in an environmentally sound manner, may not under any circumstances be transferred to the States of import or transit;

(p) Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes which are exported to other States;

(q) Parties exercising their right to prohibit the import of hazardous wastes for disposal shall inform the other Parties of their decision pursuant to Article 13 of this Convention;

(r) Parties shall prohibit or shall not permit the export of hazardous wastes to States which have prohibited the import of such wastes, when notified by the secretariat or any competent authority pursuant to sub-paragraph (q) above;

(s) Parties shall prohibit or shall not permit the export of hazardous wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes;

(t) Parties shall ensure that the transboundary movement of hazardous wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(u) Parties shall require that information about a proposed transboundary movement of hazardous wastes be provided to the States concerned, according to Annex IV A of this Convention, and clearly state the potential effects of the proposed movement on human health and the environment.

4. Furthermore

(a) Parties shall undertake to enforce the obligations of this Convention against offenders and infringements according to relevant national laws and/or international law;

(b) Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order to better protect human health and the environment;

(c) This Convention recognizes the sovereignty of States over their territorial sea, waterways, and air space established in accordance with international law, and jurisdiction which States have in their exclusive economic zone and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigation rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Article 5
Designation of Competent Authorities, Focal Point and Dumpwatch

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designations made by them under paragraph 2 above.

4. Appoint a national body to act as a Dumpwatch. In such capacity as a Dumpwatch, the desig nated national body only will be required to co-ordinate with the concerned governmental and non-governmental bodies.

Article 6
Transboundary Movement and Notification Procedures

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes. Such notification shall contain the declarations and information specified in Annex IV A of this Convention, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The Party of import shall respond to the notifier in writing consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned that are Parties to this Convention.

3. The State of export shall not allow the transboundary movement until it has received:

(a) written consent of the State of import; and

(b) from the State of import, written confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party to this Convention shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit.

5. In the case of a transboundary movement of hazardous wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 8 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;

(b) By the Party of import, or by the States of import and transit which are Parties to this Convention, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and Party of import, respectively; or

(c) By any State of transit which is a Party to this Convention, the provisions of paragraph 4 of this Article shall apply to such State.

6. The State of export shall use a shipment specific notification even where hazardous wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of entry of the State of import, and in the case of transit, via the same customs office of entry and exit of the State or States of transit; specific notification of each and every shipment shall be required and contain the information in Annex IV A of this Convention.

7. Each Party to this Convention shall limit their points or ports of entry and notify the Secretariat to this effect for distribution to all Contracting Parties. Such points and ports shall be the only ones permitted for the transboundary movement of hazardous wastes.

8. The Parties to this Convention shall require that each person who takes charge of a transboundary movement of hazardous wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

9. The notification and response required by this Article shall be transmitted to the competent authority of the States concerned.

10. Any transboundary movement of hazardous wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import, or any State of transit which is a Party to this Convention.

Article 7
Transboundary Movement from a Party through States which are not Parties

Paragraph 2 and 4 of Article 6 of this Convention shall apply mutatis mutandis to transboundary movements of hazardous wastes from a Party through a State or States which are not Parties.

Article 8
Duty to Re-import

When a transboundary movement of hazardous wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner within a maximum of 90 days from the time that the importing State informed the State of export and the Secretariat. To this end, the State of export and any State of transit shall not oppose, hinder or prevent the return of those waste to the State of export.

Article 9
Illegal traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes under the following situations shall be deemed to be illegal traffic:

(a) if carried out without notification, pursuant to the provisions of this Convention, to all States concerned; or

(b) if carried out without the consent, pursuant to the provisions of this Convention, of a State concerned; or

(c) if consent is obtained from States concerned through falsification, misrepresentation or fraud; or

(d) if it does not conform in a material way with the documents; or

(e) if it results in deliberate disposal of hazardous wastes in contravention of this Convention and of general principles of international law.

2. Each Party shall introduce appropriate national legislation for imposing criminal penalties on all persons who have planned, carried out, or assisted in such illegal imports. Such penalties shall be sufficiently high to both punish and deter such conduct.

3. In case of a transboundary movement of hazardous wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are taken back by the exporter or generator or if

necessary by itself into the State of export, within 30 days from the time the State of export has been informed about the illegal traffic. To this end the States concerned shall not oppose, hinder or prevent the return of those wastes to the State of export and appropriate legal action shall be taken against the contravenor(s).

4. In the case of a transboundary movement of hazardous wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are returned to the exporter by the importer and that legal proceedings according to the provisions of this Convention are taken against the contravenor(s).

Article 10
Intra-African Co-operation

1. The Parties to this Convention shall co-operate with one another and with relevant African organizations, to improve and achieve the environmentally sound management of hazardous wastes.

2. To this end, the Parties shall:

(a) Make available information, whether on a bilateral or multilateral basis, with a view to promoting clean production methods and the environmentally sound management of hazardous wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound clean production technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new and improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice;

(f) Co-operate in the exchange and dissemination of information on the movement of hazardous wastes in conformity with Article 13 of this Convention.

Article 11
International Co-operation Bilateral, Multilateral and Regional Agreements

1. Parties to this Convention may enter into bilateral, multilateral, or regional agreements or arrangements regarding the transboundary movement and management of hazardous wastes generated in Africa with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are no less environmentally sound than those provided for by this Convention.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 of this Article and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements of hazardous wastes generated in Africa which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes as required by this Convention.

3. Each Contracting Party shall prohibit vessels flying its flag or aircraft registered in its territory from carrying out activities in contravention of this Convention.

4. Parties shall use appropriate measures to promote South-South co-operation in the implementation of this Convention.

5. Taking into account the needs of developing countries, cooperation between international organizations is encouraged in order to promote, among other things, public awareness, the development of rational management of hazardous waste, and the adoption of new and non/less polluting technologies.

Article 12
Liabilities and Compensation

The Conference of Parties shall set up an Ad Hoc expert organ to prepare a draft Protocol setting out appropriate rules and procedures in the field of liabilities and compensation for damage resulting from the transboundary movement of hazardous wastes.

Article 13
Transmission of Information

1. The Parties shall ensure that in the case of an accident occurring during the transboundary movement of hazardous wastes or their disposal which is likely to present risks to human health and the environment in other States, those States are immediately informed.

2. The States shall inform each other, through the Secretariat, of:

(a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5 of this Convention;

(b) Changes in their national definition of hazardous wastes, pursuant to Article 3 of this Convention;

(c) Decisions made by them to limit or ban the import of hazardous wastes;

(d) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall set up information collection and dissemination mechanisms on hazardous wastes. They shall transmit such information through the Secretariat, to the Conference of the Parties established under Article 15 of this Convention, before the end of each calendar year, in a report on the previous calendar year, containing the following information:

(a) Competent authorities, Dumpwatch, and focal points that have been designated by them pursuant to Article 5 of this Convention;

(b) Information regarding transboundary movements of hazardous wastes in which they have been involved, including:

  (i) The quantity of hazardous wastes exported, their category, characteristics, destination, any transit country and disposal method as stated in the notification;

  (ii) The amount of hazardous wastes imported, their category, characteristics, origin, and disposal methods;

  (iii) Disposals which did not proceed as intended;

  (iv) Efforts to achieve a reduction of the amount of hazardous wastes subject to transboundary movement;

(c) Information on the measures adopted by them in the implementation of this Convention;

(d) Information on available qualified statistics - which have been compiled by them on the effects on human health and the environment of the generation, transportation, and disposal of hazardous wastes - as part of the information required in conformity with Article 4 Section 3 (a) of this Convention;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movements, treatment and disposal of hazardous wastes and on the measures undertaken to deal with them;

(g) Information on treatment and disposal options operated within the area under their national jurisdiction;

(h) Information on measures undertaken for the development of clean production methods, including clean production technologies, for the reduction and/or elimination of the production of hazardous wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes, and the response to it, are sent to the Secretariat.

Article 14
Financial Aspects

1. The regular budget of the Conference of Parties, as required in Article 15 and 16 of this Convention, shall be prepared by the Secretariat and approved by the Conference.

2. Parties shall, at the first meeting of the Conference of the Parties, agree on a scale of contributions to the recurrent budget of the Secretariat.

3. The Parties shall also consider the establishment of a revolving fund to assist, on an interim basis, in case of emergency situations to minimize damage from disasters or accidents arising from transboundary movements of hazardous wastes or during the disposal of such wastes.

4. The Parties agree that, according to the specific needs of different regions and sub-regions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and the minimization of their generation should be established, as well as appropriate funding mechanisms of a voluntary nature.

Article 15
Conference of the Parties

1. A Conference of the Parties, made up of Ministers having the environment as their mandate, is hereby established. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of

the OAU not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. The Conference of the Parties to this Convention shall adopt Rules of Procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties to this Convention.

3. The Parties to this Convention at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine and inland waters environments in the context of this Convention.

4. The Conference of the Parties shall keep under continued review and evaluation the effective implementation of this Convention, and in addition, shall:

(a) promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes;

(b) consider and adopt amendments to this Convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;

(c) consider and undertake any additional action that may be required for the achievement of the purpose of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11 of this Convention;

(d) consider and adopt protocols as required;

(e) establish such subsidiary bodies as are deemed necessary for the implementation of this Convention; and

(f) make decisions for the peaceful settlement of disputes arising from the transboundary movement of hazardous wastes, if need be, according to international law.

5. Organizations may be represented as observers at meetings of the Conference of the Parties. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes which has informed the Secretariat, may be represented as an observer at a meeting of the Conference of the Parties. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 16
Secretariat

1. The functions of the Secretariat shall be:

(a) To arrange for, and service, meetings provided for in Article 15 and 17 of this Convention;

(b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11, and 13 of this Convention as well as upon information derived from meetings of subsidiary bodies established under Article 15 of this Convention as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

(c) To prepare reports on its activities carried out in the implementation of its functions under this Convention and present them to the Conference of the Parties;

(d) To ensure the necessary co-ordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(e) To communicate with focal points, competent authorities and Dumpwatch established by the Parties in accordance with Article 5 of this Convention as well as appropriate inter-governmental and non-governmental organizations which may provide assistance in the implementation of this Convention;

(f) To compile information concerning approved national sites and facilities of Parties to this Convention available for the disposal and treatment of their hazardous wastes and to circulate this information;

(g) To receive and convey information from and to Parties on:

* sources of technical assistance and training;
* available technical and scientific know-how;
* sources of advice and expertise; and
* availability of resources;

This information will assist them in,

* the management of the notification system of this Convention;
* the management of hazardous wastes;
* environmentally sound clean production methods relating to
* hazardous wastes, such as clean production technologies;
* the assessment of disposal capabilities and sites;
* the monitoring of hazardous wastes; and
* emergency responses;

(h) To provide Parties to this Convention with information on consultants or consulting firms having the necessary technical competence in the

field, which can assist them with examining a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes with the relevant notification, and/or whether the proposed disposal facilities for hazardous wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examinations would not be at the expense of the Secretariat;

(i) To assist Parties to this Convention in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

(j) To co-operate with Parties to this Convention and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

(k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties to this Convention.

2. The Secretariat's functions shall be carried out on an interim basis by the Organization of African Unity (OAU) jointly with the United Nations Economic Commission for Africa (ECA) until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15 of this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

Article 17
Amendment of the Convention and of Protocols

1. Any Party may propose amendments to this Convention and any Party to a Protocol may propose amendments to that Protocol. Such amendments shall take due account, inter alia, of relevant scientific, technical, environmental and social considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any Protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any Protocol, except as may otherwise be provided in such Protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for their information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting at the meeting. It shall then be submitted by the Depository to all Parties for ratification, approval, formal confirmation or acceptance.

Amendment of Protocols to this Convention

4. The procedure specified in paragraph 3 above shall apply to amendments to any protocol, except that a two - thirds majority of the Parties to that Protocol present and voting at the meeting shall suffice for their adoption.

General Provisions

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depository. Amendments adopted in accordance with paragraph 3 or 4 above shall enter into force between Parties having accepted them, on the ninetieth day after the receipt by the Depository of the instrument of ratification, approval, formal confirmation or acceptance by at least two-thirds of the Parties who accepted the amendments to the Protocol concerned, except as may otherwise be provided in such Protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 18
Adoption and Amendment of Annexes

1. The annexes to this Convention or to any Protocol shall form an integral part of this Convention or of such Protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its Protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention and its Protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 1, 2, 3, and 4 of this Convention;

(b) Any Party that is unable to accept an additional annex to this Convention or an annex to any

Protocol to which it is Party shall so notify the Depository, in writing, within six months from the date of the communication of the adoption by the Depository. The Depository shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) Upon the expiration of six months from the date of the circulation of the communication by the Depository, the annex shall become effective for all Parties to this Convention or to any Protocol concerned, which have not submitted a notification in accordance with the provision of sub-paragraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any Protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a Protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any Protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the Protocol enters into force.

Article 19
Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention must inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. The Secretariat shall carry out a verification of the substance of the allegation and submit a report thereof to all the Parties to this Convention.

Article 20
Settlement of Disputes

1. In case of dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any Protocol thereto, the Parties shall seek a settlement of the dispute through negotiations or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute as provided in paragraph 1 of this Article, the dispute shall be submitted either to an Ad Hoc organ set up by the Conference for this purpose, or to the International Court of Justice.

3. The conduct of arbitration of disputes between Parties by the Ad Hoc organ provided for in paragraph 2 of this Article shall be as provided in Annex V of this Convention.

Article 21
Signature

This Convention shall be open for signature by Member States of the OAU in Bamako and Addis Ababa for a period of six months from 30 January 1991 to 31 July 1991.

Article 22
Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance, formal confirmation, or approval by Member States of the OAU. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depository.

2. Parties shall be bound by all obligations of this Convention.

Article 23

This Convention shall be open for accession by member States of the OAU from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depository.

Article 24
Right to Vote

Each Contracting Party to this Convention shall have one vote.

Article 25
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the tenth instrument of ratification from Parties signatory to this Convention.

2. For each State which ratifies this Convention or accedes thereto after the date of the deposit of the tenth instrument of ratification, it shall enter into force on the ninetieth day after the date of deposit by such State of its instrument of accession or ratification.

Article 26
Reservations and Declarations

1. No reservations or exception may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State when signing, ratifying, or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27
Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depository.

2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.

3. Withdrawal shall not exempt the withdrawing Party from fulfilling any obligations it might have incurred under this Convention.

Article 28
Depository

The Secretary - General of the Organization of African Unity shall be the Depository for this Convention and of any Protocol thereto.

Article 29
Registration

This Convention, as soon as it enters into force, shall be registered with the Secretary-General of the United Nations Organization (UNO) in conformity with Article 102 of the Charter of the UNO.

Article 30
Authentic Texts

The Arabic, English, French and Portuguese texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Adopted in Bamako, Mali, on 30 January 1991.
UNOFFICIAL TRANSLATION

50. CONVENTION ON THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES

PREAMBLE

The Parties to this Convention,

Mindful that the protection and use of transboundary watercourses and international lakes are important and urgent tasks, the effective accomplishment of which can only be ensured by enhanced cooperation,

Concerned over the existence and threats of adverse effects, in the short or long term, of changes in the conditions of transboundary watercourses and international lakes on the environment, economies and well-being of the member countries of the Economic Commission for Europe (ECE),

Emphasizing the need for strengthened national and international measures to prevent, control and reduce the release of hazardous substances into the aquatic environment and to abate eutrophication and acidification, as well as pollution of the marine environment, in particular coastal areas, from land-based sources,

Commending the efforts already undertaken by the ECE Governments to strengthen cooperation, on bilateral and multilateral levels, for the prevention, control and reduction of transboundary pollution, sustainable water management, conservation of water resources and environmental protection,

Recalling the pertinent provisions and principles of the Declaration of the Stockholm Conference on the Human Environment, the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Concluding Documents of the Madrid and Vienna Meetings of Representatives of the Participating States of the CSCE, and the Regional Strategy for Environmental Protection and Rational Use of Natural Resources in ECE Member Countries covering the Period up to the Year 2000 and Beyond,

Conscious of the role of the United Nations Economic Commission for Europe in promoting international cooperation for the prevention, control and reduction of transboundary water pollution and sustainable use of transboundary waters, and in this regard recalling the ECE Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution; the ECE Declaration of Policy on the Rational Use of Water; the ECE Principles Regarding Cooperation in the Field of Transboundary Waters; the ECE Charter on Groundwater Management; and the Code of Conduct on Accidental Pollution of Transboundary Inland Waters,

Referring to decisions I (42) and I (44) adopted by the Economic Commission for Europe at its forty-second and forty-fourth sessions, respectively, and the outcome of the CSCE Meeting on the Protection of the Environment (Sofia, Bulgaria, 16 October November 1989),

Emphasizing that cooperation between member countries in regard to the protection and use of transboundary waters shall be implemented primarily through the elaboration of agreements between countries bordering the same waters, especially where no such agreements have yet been reached,

Have agreed as follows:

Article 1
Definitions

For the purposes of this Convention,

1. "Transboundary waters" means any surface or ground waters which mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks;

2. "Transboundary impact" means any significant adverse effect on the environment resulting from a change in the conditions of transboundary waters caused by a human activity, the physical origin of which is situated wholly or in part within an area under the jurisdiction of a Party, within an area under the jurisdiction of another Party. Such effects on the environment include effects on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; they also include effects on the cultural heritage or socio-economic conditions resulting from alterations to those factors;

3. "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;

4. "Riparian Parties" means the Parties bordering the same transboundary waters;

5. "Joint body" means any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the Riparian Parties;

6. "Hazardous substances" means substances which are toxic, carcinogenic, mutagenic, teratogenic or bio-accumulative, especially when they are persistent;7.

"Best available technology" (the definition is contained in annex I to this Convention).

PART I
PROVISIONS RELATING TO ALL PARTIES

Article 2
General Provisions

1. The Parties shall take all appropriate measures to prevent, control and reduce any transboundary impact.

2. The Parties shall, in particular, take all appropriate measures:

(a) To prevent, control and reduce pollution of waters causing or likely to cause transboundary impact;

(b) To ensure that transboundary waters are used with the aim of ecologically sound and rational water management, conservation of water resources and environmental protection;

(c) To ensure that transboundary waters are used in a reasonable and equitable way, taking into particular account their transboundary character, in the case of activities which cause or are likely to cause transboundary impact;

(d) To ensure conservation and, where necessary, restoration of ecosystems.

3. Measures for the prevention, control and reduction of water pollution shall be taken, where possible, at source.

4. These measures shall not directly or indirectly result in a transfer of pollution to other parts of the environment.

5. In taking the measures referred to in paragraphs 1 and 2 of this article, the Parties shall be guided by the following principles:

(a) The precautionary principle, by virtue of which action to avoid the potential transboundary impact of the release of hazardous substances shall not be postponed on the ground that scientific research has not fully proved a causal link between those substances, on the one hand, and the potential transboundary impact, on the other hand;

(b) The polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction measures shall be borne by the polluter;

(c) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs.

6. The Riparian Parties shall cooperate on the basis of equality and reciprocity, in particular through bilateral and multilateral agreements, in order to develop harmonized policies, programmes and strategies covering the relevant catchment areas, or parts thereof, aimed at the prevention, control and reduction of transboundary impact and aimed at the protection of the environment of transboundary waters or the environment influenced by such waters, including the marine environment.

7. The application of this Convention shall not lead to the deterioration of environmental conditions nor lead to increased transboundary impact.

8. The provisions of this Convention shall not affect the right of Parties individually or jointly to adopt and implement more stringent measures than those set down in this Convention.

Article 3
Prevention, Control and Reduction

1. To prevent, control and reduce transboundary impact, the Parties shall develop, adopt, implement and, as far as possible, render compatible relevant legal, administrative, economic, financial and technical measures, in order to ensure, inter alia, that:

(a) The emission of pollutants is prevented, controlled and reduced at source through the application of, inter alia, low- and non-waste technology;

(b) Transboundary waters are protected against pollution from point sources through the prior licensing of waste-water discharges by the competent national authorities, and that the authorized discharges are monitored and controlled;

(c) Limits for waste-water discharges stated in permits are based on the best available technology for discharges of hazardous substances;

(d) Stricter requirements, even leading to prohibition in individual cases, are imposed when the quality of the receiving water or the ecosystem so requires;

(e) At least biological treatment or equivalent processes are applied to municipal waste water, where necessary in a step-by-step approach;

(f) Appropriate measures are taken, such as the application of the best available technology, in order to reduce nutrient inputs from industrial and municipal sources;

(g) Appropriate measures and best environmental practices are developed and implemented for the reduction of inputs of nutrients and hazardous substances from diffuse sources, especially where

the main sources are from agriculture (guidelines for developing best environmental practices are given in annex II to this Convention);

(h) Environmental impact assessment and other means of assessment are applied;

(i) Sustainable water-resources management, including the application of the ecosystems approach, is promoted;

(j) Contingency planning is developed;

(k) Additional specific measures are taken to prevent the pollution of groundwaters;

(l) The risk of accidental pollution is minimized.

2. To this end, each Party shall set emission limits for discharges from point sources into surface waters based on the best available technology, which are specifically applicable to individual industrial sectors or industries from which hazardous substances derive. The appropriate measures mentioned in paragraph 1 of this article to prevent, control and reduce the input of hazardous substances from point and diffuse sources into waters, may, inter alia, include total or partial prohibition of the production or use of such substances. Existing lists of such industrial sectors or industries and of such hazardous substances in international conventions or regulations, which are applicable in the area covered by this Convention, shall be taken into account.

3. In addition, each Party shall define, where appropriate, water-quality objectives and adopt water-quality criteria for the purpose of preventing, controlling and reducing transboundary impact. General guidance for developing such objectives and criteria is given in annex III to this Convention. When necessary, the Parties shall endeavour to update this annex.

Article 4
Monitoring

The Parties shall establish programmes for monitoring the conditions of transboundary waters.

Article 5
Research and Development

The Parties shall cooperate in the conduct of research into and development of effective techniques for the prevention, control and reduction of transboundary impact. To this effect, the Parties shall, on a bilateral and/or multilateral basis, taking into account research activities pursued in relevant international forums, endeavour to initiate or intensify specific research programmes, where necessary, aimed, inter alia, at:

(a) Methods for the assessment of the toxicity of hazardous substances and the noxiousness of pollutants;

(b) Improved knowledge on the occurrence, distribution and environmental effects of pollutants and the processes involved;

(c) The development and application of environmentally sound technologies, production and consumption patterns;

(d) The phasing out and/or substitution of substances likely to have transboundary impact;

(e) Environmentally sound methods of disposal of hazardous substances;

(f) Special methods for improving the conditions of transboundary waters;

(g) The development of environmentally sound water-construction works and water-regulation techniques;

(h) The physical and financial assessment of damage resulting from transboundary impact. The results of these research programmes shall be exchanged among the Parties in accordance with article 6 of this Convention.

Article 6
Exchange of Information

The Parties shall provide for the widest exchange of information, as early as possible, on issues covered by the provisions of this Convention.

Article 7
Responsibility and Liability

The Parties shall support appropriate international efforts to elaborate rules, criteria and procedures in the field of responsibility and liability.

Article 8
Protection of Information

The provisions of this Convention shall not affect the rights or the obligations of Parties in accordance with their national legal systems and applicable supranational regulations to protect information related to industrial and commercial secrecy, including intellectual property, or national security.

PART II
PROVISIONS RELATING TO RIPARIAN PARTIES

Article 9
Bilateral and Multilateral Cooperation

1. The Riparian Parties shall on the basis of equality and reciprocity enter into bilateral or multilateral agreements or other arrangements, where these do not yet exist, or adapt existing ones, where necessary to eliminate the contradictions with the basic principles of this Convention, in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact. The Riparian

Parties shall specify the catchment area, or part(s) thereof, subject to cooperation. These agreements or arrangements shall embrace relevant issues covered by this Convention, as well as any other issues on which the Riparian Parties may deem it necessary to cooperate.

2. The agreements or arrangements mentioned in paragraph 1 of this article shall provide for the establishment of joint bodies. The tasks of these joint bodies shall be, inter alia, and without prejudice to relevant existing agreements or arrangements, the following:

(a) To collect, compile and evaluate data in order to identify pollution sources likely to cause transboundary impact;

(b) To elaborate joint monitoring programmes concerning water quality and quantity;

(c) To draw up inventories and exchange information on the pollution sources mentioned in paragraph 2 (a) of this article;

(d) To elaborate emission limits for waste water and evaluate the effectiveness of control programmes;

(e) To elaborate joint water-quality objectives and criteria having regard to the provisions of article 3, paragraph 3 of this Convention, and to propose relevant measures for maintaining and, where necessary, improving the existing water quality;

(f) To develop concerted action programmes for the reduction of pollution loads from both point sources (e.g. municipal and industrial sources) and diffuse sources (particularly from agriculture);

(g) To establish warning and alarm procedures;

(h) To serve as a forum for the exchange of information on existing and planned uses of water and related installations that are likely to cause transboundary impact;

(i) To promote cooperation and exchange of information on the best available technology in accordance with the provisions of article 13 of this Convention, as well as to encourage cooperation in scientific research programmes;

(j) To participate in the implementation of environmental impact assessments relating to transboundary waters, in accordance with appropriate international regulations.

3. In cases where a coastal State, being Party to this Convention, is directly and significantly affected by transboundary impact, the Riparian Parties can, if they all so agree, invite that coastal State to be involved in an appropriate manner in the activities of multilateral joint bodies established by Parties riparian to such transboundary waters.

4. Joint bodies according to this Convention shall invite joint bodies, established by coastal States for the protection of the marine environment directly affected by transboundary impact, to cooperate in order to harmonize their work and to prevent, control and reduce the transboundary impact.

5. Where two or more joint bodies exist in the same catchment area, they shall endeavour to coordinate their activities in order to strengthen the prevention, control and reduction of transboundary impact within that catchment area.

Article 10
Consultations

Consultations shall be held between the Riparian Parties on the basis of reciprocity, good faith and good-neighbourliness, at the request of any such Party. Such consultations shall aim at cooperation regarding the issues covered by the provisions of this Convention. Any such consultations shall be conducted through a joint body established under article 9 of this Convention, where one exists.

Article 11
Joint Monitoring and Assessment

1. In the framework of general cooperation mentioned in article 9 of this Convention, or specific arrangements, the Riparian Parties shall establish and implement joint programmes for monitoring the conditions of transboundary waters, including floods and ice drifts, as well as transboundary impact.

2. The Riparian Parties shall agree upon pollution parameters and pollutants whose discharges and concentration in transboundary waters shall be regularly monitored.

3. The Riparian Parties shall, at regular intervals, carry out joint or coordinated assessments of the conditions of transboundary waters and the effectiveness of measures taken for the prevention, control and reduction of transboundary impact. The results of these assessments shall be made available to the public in accordance with the provisions set out in article 16 of this Convention.

4. For these purposes, the Riparian Parties shall harmonize rules for the setting up and operation of monitoring programmes, measurement systems, devices, analytical techniques, data processing and evaluation procedures, and methods for the registration of pollutants discharged.

Article 12
Common Research and Development

In the framework of general cooperation mentioned in article 9 of this Convention, or specific arrangements, the Riparian Parties shall undertake specific research and development activities in support of achieving and maintaining the water-quality objectives and criteria which they have agreed to set and adopt.

Article 13
Exchange of Information Between Riparian Parties

1. The Riparian Parties shall, within the framework of relevant agreements or other arrangements according to article 9 of this Convention, exchange reasonably available data, inter alia, on:

(a) Environmental conditions of transboundary waters;

(b) Experience gained in the application and operation of best available technology and results of research and development;

(c) Emission and monitoring data;

(d) Measures taken and planned to be taken to prevent, control and reduce transboundary impact;

(e) Permits or regulations for waste-water discharges issued by the competent authority or appropriate body.

2. In order to harmonize emission limits, the Riparian Parties shall undertake the exchange of information on their national regulations.

3. If a Riparian Party is requested by another Riparian Party to provide data or information that is not available, the former shall endeavour to comply with the request but may condition its compliance upon the payment, by the requesting Party, of reasonable charges for collecting and, where appropriate, processing such data or information.

4. For the purposes of the implementation of this Convention, the Riparian Parties shall facilitate the exchange of best available technology, particularly through the promotion of: the commercial exchange of available technology; direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance. The Riparian Parties shall also undertake joint training programmes and the organization of relevant seminars and meetings.

Article 14
Warning and Alarm Systems

The Riparian Parties shall without delay inform each other about any critical situation that may have transboundary impact. The Riparian Parties shall set up, where appropriate, and operate coordinated or joint communication, warning and alarm systems with the aim of obtaining and transmitting information. These systems shall operate on the basis of compatible data transmission and treatment procedures and facilities to be agreed upon by the Riparian Parties. The Riparian Parties shall inform each other about competent authorities or points of contact designated for this purpose.

Article 15
Mutual Assistance

1. If a critical situation should arise, the Riparian Parties shall provide mutual assistance upon request, following procedures to be established in accordance with paragraph 2 of this article.

2. The Riparian Parties shall elaborate and agree upon procedures for mutual assistance addressing, inter alia, the following issues:

(a) The direction, control, coordination and supervision of assistance;

(b) Local facilities and services to be rendered by the Party requesting assistance, including, where necessary, the facilitation of border-crossing formalities;

(c) Arrangements for holding harmless, indemnifying and/or compensating the assisting Party and/or its personnel, as well as for transit through territories of third Parties, where necessary;

(d) Methods of reimbursing assistance services.

Article 16
Public Information

1. The Riparian Parties shall ensure that information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and the effectiveness of those measures, is made available to the public. For this purpose, the Riparian Parties shall ensure that the following information is made available to the public:

(a) Water-quality objectives;

(b) Permits issued and the conditions required to be met;

(c) Results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with the water-quality objectives or the permit conditions.

2. The Riparian Parties shall ensure that this information shall be available to the public at all reasonable times for inspection free of charge, and shall provide

members of the public with reasonable facilities for obtaining from the Riparian Parties, on payment of reasonable charges, copies of such information.

PART III
INSTITUTIONAL AND FINAL PROVISIONS

Article 17
Meeting Of Parties

1. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, ordinary meetings shall be held every three years, or at shorter intervals as laid down in the rules of procedure. The Parties shall hold an extraordinary meeting if they so decide in the course of an ordinary meeting or at the written request of any Party, provided that, within six months of it being communicated to all Parties, the said request is supported by at least one third of the Parties.

2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention, and, with this purpose in mind, shall:

(a) Review the policies for and methodological approaches to the protection and use of transboundary waters of the Parties with a view to further improving the protection and use of transboundary waters;

(b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the protection and use of transboundary waters to which one or more of the Parties are party;

(c) Seek, where appropriate, the services of relevant ECE bodies as well as other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;

(d) At their first meeting, consider and by consensus adopt rules of procedure for their meetings;

(e) Consider and adopt proposals for amendments to this Convention;

(f) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

Article 18
Right to Vote

1. Except as provided for in paragraph 2 of this article, each Party to this Convention shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 19
Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

(a) The convening and preparing of meetings of the Parties;

(b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Convention;

(c) The performance of such other functions as may be determined by the Parties.

Article 20
Annexes

Annexes to this Convention shall constitute an integral part thereof.

Article 21
Amendments to the Convention

1. Any Party may propose amendments to this Convention.

2. Proposals for amendments to this Convention shall be considered at a meeting of the Parties.

3. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting at which it is proposed for adoption.

4. An amendment to the present Convention shall be adopted by consensus of the representatives of the Parties to this Convention present at a meeting of the Parties, and shall enter into force for the Parties to the Convention which have accepted it on the ninetieth day after the date on which two thirds of those Parties have deposited with the Depositary their instruments of acceptance of the amendment. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of acceptance of the amendment.

Article 22
Settlement of Disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in annex IV.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 23
Signature

This Convention shall be open for signature at Helsinki from 17 to 18 March 1992 inclusive, and thereafter at United Nations Headquarters in New York until 18 September 1992, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 24
Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Convention.

Article 25
Ratification, Acceptance, Approval and Accession

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.

2. This Convention shall be open for accession by the States and organizations referred to in article 23.

3. Any organization referred to in article 23 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 23 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

Article 26
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 of this article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in article 23 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 27
Withdrawal

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from the Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 28
Authentic Texts

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Helsinki, this seventeenth day of March one thousand nine hundred and ninety-two.

ANNEX I
DEFINITION OF THE TERM "BEST AVAILABLE TECHNOLOGY"

1. The term "best available technology" is taken to mean the latest stage of development of processes, facilities or methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available technology in general or individual cases, special consideration is given to:

(a) Comparable processes, facilities or methods of operation which have recently been successfully tried out;
(b) Technological advances and changes in scientific knowledge and understanding;
(c) The economic feasibility of such technology;
(d) Time limits for installation in both new and existing plants;
(e) The nature and volume of the discharges and effluents concerned;
(f) Low- and non-waste technology.

2. It therefore follows that what is "best available technology" for a particular process will change with time in the light of technological advances, economic and social factors, as well as in the light of changes in scientific knowledge and understanding.

ANNEX II
GUIDELINES FOR DEVELOPING BEST ENVIRONMENTAL PRACTICES

1. In selecting for individual cases the most appropriate combination of measures which may constitute the best environmental practice, the following graduated range of measures should be considered:

(a) Provision of information and education to the public and to users about the environmental consequences of the choice of particular activities and products, their use and ultimate disposal;
(b) The development and application of codes of good environmental practice which cover all aspects of the product's life;
(c) Labels informing users of environmental risks related to a product, its use and ultimate disposal;
(d) Collection and disposal systems available to the public;
(e) Recycling, recovery and reuse;
(f) Application of economic instruments to activities, products or groups of products;
(g) A system of licensing, which involves a range of restrictions or a ban.

2. In determining what combination of measures constitute best environmental practices, in general or in individual cases, particular consideration should be given to:

(a) The environmental hazard of:
(i) The product;
(ii) The product's production;
(iii) The product's use;
(iv) The product's ultimate disposal;
(b) Substitution by less polluting processes or substances;
(c) Scale of use;
(d) Potential environmental benefit or penalty of substitute materials or activities;
(e) Advances and changes in scientific knowledge and understanding;
(f) Time limits for implementation;
(g) Social and economic implications.

3. It therefore follows that best environmental practices for a particular source will change with time in the light of technological advances, economic and social factors, as well as in the light of changes in scientific knowledge and understanding.

ANNEX III
GUIDELINES FOR DEVELOPING WATER-QUALITY OBJECTIVES AND CRITERIA

Water-quality objectives and criteria shall:

(a) Take into account the aim of maintaining and, where necessary, improving the existing water quality;
(b) Aim at the reduction of average pollution loads (in particular hazardous substances) to a certain degree within a certain period of time;
(c) Take into account specific water-quality requirements (raw water for drinking-water purposes, irrigation, etc.);
(d) Take into account specific requirements regarding sensitive and specially protected waters and their environment, e.g. lakes and groundwater resources;
(e) Be based on the application of ecological classification methods and chemical indices for the medium- and long-term review of water-quality maintenance and improvement;
(f) Take into account the degree to which objectives are reached and the additional protective measures, based on emission limits, which may be required in individual cases.

ANNEX IV
ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 22, paragraph 2 of this Convention, a party or parties shall notify the secretariat of the subject-matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Convention.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information;

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

13. The arbitral tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to this Convention which has an interest of a legal nature in the subject-matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

51. PROTOCOL ON WATER AND HEALTH TO THE CONVENTION ON THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES

The Parties to this Protocol,

Mindful that water is essential to sustain life and that the availability of water in quantities, and of a quality, sufficient to meet basic human needs is a prerequisite both for improved health and for sustainable development,

Acknowledging the benefits to human health and well-being that accrue from wholesome and clean water and a harmonious and properly functioning water environment,

Aware that surface waters and groundwater are renewable resources with a limited capacity to recover from adverse impacts from human activities on their quantity and quality, that any failure to respect those limits may result in adverse effects, in both the short and long terms, on the health and well-being of those who rely on those resources and their quality, and that in consequence sustainable management of the hydrological cycle is essential for both meeting human needs and protecting the environment,

Aware also of the consequences for public health of shortfalls of water in the quantities, and of the quality, sufficient to meet basic human needs, and of the serious effects of such shortfalls, in particular on the vulnerable, the disadvantaged and the socially excluded,

Conscious that the prevention, control and reduction of water-related disease are important and urgent tasks which can only be satisfactorily discharged by enhanced cooperation at all levels and among all sectors, both within countries and between States,

Conscious also that surveillance of water-related disease and the establishment of early-warning systems and response systems are important aspects of the prevention, control and reduction of water-related disease,

Basing themselves upon the conclusions of the United Nations Conference on Environment and Development (Rio de Janeiro, 1992), in particular the Rio Declaration on Environment and Development and Agenda 21, as well as upon the programme for the further implementation of Agenda 21 (New York, 1997) and the consequent decision of the Commission on Sustainable Development on the sustainable management of freshwater (New York, 1998),

Deriving inspiration from the relevant provisions of the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes and emphasizing the need both to encourage more widespread application of those provisions and to complement that Convention with further measures to strengthen the protection of public health,

Taking note of the 1991 Convention on Environmental Impact Assessment in a Transboundary Context, the 1992 Convention on the Transboundary Effects of Industrial Accidents, the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses and the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters,

Further taking note of the pertinent principles, targets and recommendations of the 1989 European Charter on Environment and Health, the 1994 Helsinki Declaration on Environment and Health, and the Ministerial declarations, recommendations and resolutions of the 'Environment for Europe' process,

Recognizing the sound basis and relevance of other environmental initiatives, instruments and processes in Europe, as well as the preparation and implementation of National Environment and Health Action Plans and of National Environment Action Plans,

Commending the efforts already undertaken by the United Nations Economic Commission for Europe and the Regional Office for Europe of the World Health Organization to strengthen bilateral and multilateral cooperation for the prevention, control and reduction of water-related disease,

Encouraged by the many examples of positive achievements by the States members of the United Nations economic Commission for Europe and the States members of the Regional Committee for Europe of the World Health Organization in abating pollution and in maintaining and restoring water environments capable of supporting human health and well-being,

Have agreed as follows:

Article 1
Objective

The objective of this Protocol is to promote at all appropriate levels, nationally as well as in transboundary and international contexts, the protection of human health and well-being, both individual and collective, within a framework of sustainable development, through improving water

management, including the protection of water ecosystems, and through preventing, controlling and reducing water-related disease.

Article 2
Definitions

For the purposes of this Protocol,

1. 'Water-related disease' means any significant adverse effects on human health, such as death, disability, illness or disorders, caused directly or indirectly by the condition, or changes in the quantity or quality, of any waters;

2. 'Drinking water' means water which is used, or intended to be available for use, by humans for drinking, cooking, food preparation, personal hygiene or similar purposes;

3. 'Groundwater' means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

4. 'Enclosed waters' means artificially created water bodies separated from surface freshwater or coastal water, whether within or outside a building;

5. 'Transboundary waters' means any surface or ground waters which mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks;

6. 'Transboundary effects of water-related disease' means any significant adverse effects on human health, such as death, disability, illness or disorders, in an area under the jurisdiction of one Party, caused directly or indirectly by the condition, or changes in the quantity or quality, of waters in an area under the jurisdiction of another Party, whether or not such effects constitute a transboundary impact;

7. 'Transboundary impact' means any significant adverse effect on the environment resulting from a change in the conditions of transboundary waters caused by a human activity, the physical origin of which is situated wholly or in part within an area under the jurisdiction of a Party to the Convention, within an area under the jurisdiction of another Party to the Convention. Such effects on the environment include effects on human health and safety, flora, fauna, soil, air, water, climate, landscape, and historical monuments or other physical structures or the interaction among these factors; they also include effects on the cultural heritage or socio-economic conditions resulting from alterations to those factors;

8. 'Sanitation' means the collection, transport, treatment and disposal or reuse of human excreta or domestic waste water, whether through collective systems or by installations serving a single household or undertaking;

9. 'Collective system' means:
   (a) A system for the supply of drinking water to a number of households or undertakings; and/or
   (b) A system for the provision of sanitation which serves a number of households or undertakings and, where appropriate, also provides for the collection, transport, treatment and disposal or reuse of industrial waste water, whether provided by a body in the public sector, an undertaking in the private sector or by a partnership between the two sectors;

10. 'Water-management plan' means a plan for the development, management, protection and/or use of the water within a territorial area or groundwater aquifer, including the protection of the associated ecosystems;

11. 'The public' means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

12. 'Public authority' means:
   (a) Government at national, regional and other levels;

   (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment, public health, sanitation, water management or water supply;

   (c) Any other natural or legal persons having public responsibilities or functions, or providing public services, under the control of a body or person falling within subparagraphs (a) or (b) above;

   (d) The institutions of any regional economic integration organization referred to in article 21, which is a Party. This definition does not include bodies or institutions acting in a judicial or legislative capacity;

13. 'Local' refers to all relevant levels of territorial unit below the level of the State;

14. 'Convention' means the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, done at Helsinki on 17 March 1992;

15. 'Meeting of the Parties to the Convention' means the body established by the Parties to the Convention in accordance with its article 17;

16. 'Party' means, unless the text otherwise indicates, a State or a regional economic integration organization referred to in article 21 which has consented to be bound by this Protocol and for which this Protocol is in force;

17. 'Meeting of the Parties' means the body established by the Parties in accordance with article 16.

Article 3
Scope

The provisions of this Protocol shall apply to:

(a) Surface freshwater;

(b) Groundwater;

(c) Estuaries;

(d) Coastal waters which are used for recreation or for the production of fish by aquaculture or for the production or harvesting of shellfish;

(e) Enclosed waters generally available for bathing;

(f) Water in the course of abstraction, transport, treatment or supply;

(g) Waste water throughout the course of collection, transport, treatment and discharge or reuse.

Article 4
General Provisions

1. The Parties shall take all appropriate measures to prevent, control and reduce water-related disease within a framework of integrated water-management systems aimed at sustainable use of water resources, ambient water quality which does not endanger human health, and protection of water ecosystems.

2. The Parties shall, in particular, take all appropriate measures for the purpose of ensuring:

(a) Adequate supplies of wholesome drinking water which is free from any micro-organisms, parasites and substances which, owing to their numbers or concentration, constitute a potential danger to human health. This shall include the protection of water resources which are used as sources of drinking water, treatment of water and the establishment, improvement and maintenance of collective systems;

(b) Adequate sanitation of a standard which sufficiently protects human health and the environment. This shall in particular be done through the establishment, improvement and maintenance of collective systems;

(c) Effective protection of water resources used as sources of drinking water, and their related water ecosystems, from pollution from other causes, including agriculture, industry and other discharges and emissions of hazardous substances. This shall aim at the effective reduction and elimination of discharges and emissions of substances judged to be hazardous to human health and water ecosystems;

(d) Sufficient safeguards for human health against water-related disease arising from the use of water for recreational purposes, from the use of water for aquaculture, from the water in which shellfish are produced or from which they are harvested, from the use of waste water for irrigation or from the use of sewage sludge in agriculture or aquaculture;

(e) Effective systems for monitoring situations likely to result in outbreaks or incidents of water-related disease and for responding to such outbreaks and incidents and to the risk of them.

3. Subsequent references in this Protocol to 'drinking water' and 'sanitation' are to drinking water and sanitation that are required to meet the requirements of paragraph 2 of this article.

4. The Parties shall base all such measures upon an assessment of any proposed measure in respect of all its implications, including the benefits, disadvantages and costs, for:

(a) Human health;

(b) Water resources; and

(c) Sustainable development, which takes account of the differing new impacts of any proposed measure on the different environmental mediums.

5. The Parties shall take all appropriate action to create legal, administrative and economic frameworks which are stable and enabling and within which the public, private and voluntary sectors can each make its contribution to improving water management for the purpose of preventing, controlling and reducing water-related disease.

6. The Parties shall require public authorities which are considering taking action, or approving the taking by others of action, that may have a significant impact on the environment of any waters within the scope of this Protocol to take due account of any potential impact of that action on public health.

7. Where a Party is a Party to the Convention on Environmental Impact Assessment in a

Transboundary Context, compliance by public authorities of that Party with the requirements of that Convention in relation to a proposed action shall satisfy the requirement under paragraph 6 of this article in respect of that action.

8. The provisions of this Protocol shall not affect the rights of Parties to maintain, adopt or implement more stringent measures than those set down in this Protocol.

9. The provisions of this Protocol shall not affect the rights and obligations of any Party to this Protocol deriving from the Convention or any other existing international agreement, except where the requirements under this Protocol are more stringent than the corresponding requirements under the Convention or that other existing international agreement.

Article 5
Principles and Approaches

In taking measures to implement this Protocol, the Parties shall be guided in particular by the following principles and approaches:

(a) The precautionary principle, by virtue of which action to prevent, control or reduce water-related disease shall not be postponed on the ground that scientific research has not fully proved a causal link between the factor at which such action is aimed, on the one hand, and the potential contribution of that factor to the prevalence of water-related disease and/or transboundary impacts, on the other hand;

(b) The polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction shall be borne by the polluter;

(c) States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

(d) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs;

(e) Preventive action should be taken to avoid outbreaks and incidents of water-related disease and to protect water resources used as sources of drinking water because such action addresses the harm more efficiently and can be more cost-effective than remedial action;

(f) Action to manage water resources should be taken at the lowest appropriate administrative level;

(g) Water has social, economic and environmental values and should therefore be managed so as to realize the most acceptable and sustainable combination of those values;

(h) Efficient use of water should be promoted through economic instruments and awareness-building;

(i) Access to information and public participation in decision-making concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns. Such access and participation should be supplemented by appropriate access to judicial and administrative review of relevant decisions;

(j) Water resources should, as far as possible, be managed in an integrated manner on the basis of catchment areas, with the aims of linking social and economic development to the protection of natural ecosystems and of relating water-resource management to regulatory measures concerning other environmental mediums. Such an integrated approach should apply across the whole of a catchment area, whether transboundary or not, including its associated coastal waters, the whole of a groundwater aquifer or the relevant parts of such a catchment area or groundwater aquifer;

(k) Special consideration should be given to the protection of people who are particularly vulnerable to water-related disease;

(l) Equitable access to water, adequate in terms both of quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion;

(m) As a counterpart to their rights and entitlements to water under private law and public law, natural and legal persons and institutions, whether in the public sector or the private sector, should contribute to the protection of the water environment and the conservation of water resources; and

(n) In implementing this Protocol, due account should be given to local problems, needs and knowledge.

Article 6
Targets and Target Dates

1. In order to achieve the objective of this Protocol, the Parties shall pursue the aims of:

(a) Access to drinking water for everyone;

(b) Provision of sanitation for everyone within a framework of integrated water-management systems aimed at sustainable use of water

resources, ambient water quality which does not endanger human health, and protection of water ecosystems.

2. For these purposes, the Parties shall each establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease. These targets shall be periodically revised. In doing all this, they shall make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation. Except where national or local circumstances make them irrelevant for preventing, controlling and reducing water-related disease, the targets shall cover, inter alia:

(a) The quality of the drinking water supplied, taking into account the Guidelines for drinking-water quality of the World Health Organization;

(b) The reduction of the scale of outbreaks and incidents of water-related disease;

(c) The area of territory, or the population sizes or proportions, which should be served by collective systems for the supply of drinking water or where the supply of drinking water by other means should be improved;

(d) The area of territory, or the population sizes or proportions, which should be served by collective systems of sanitation or where sanitation by other means should be improved;

(e) The levels of performance to be achieved by such collective systems and by such other means of water supply and sanitation respectively;

(f) The application of recognized good practice to the management of water supply and sanitation, including the protection of waters used as sources for drinking water;

(g) The occurrence of discharges of:
  (i) Untreated waste water; and
  (ii) Untreated storm water overflows from waste-water collection systems to waters within the scope of this Protocol;

(h) The quality of discharges of waste water from waste-water treatment installations to waters within the scope of this Protocol;

(i) The disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations and the quality of waste water used for irrigation purposes, taking into account the Guidelines for the safe use of waste water and excreta in agriculture and aquaculture of the World Health Organization and the United Nations Environment Programme;

(j) The quality of waters which are used as sources for drinking water, which are generally used for bathing or which are used for aquaculture or for the production or harvesting of shellfish;

(k) The application of recognized good practice to the management of enclosed waters generally available for bathing;

(l) The identification and remediation of particularly contaminated sites which adversely affect waters within the scope of this Protocol or are likely to do so and which thus threaten to give rise to water-related disease;

(m) The effectiveness of systems for the management, development, protection and use of water resources, including the application of recognized good practice to the control of pollution from sources of all kinds;

(n) The frequency of the publication of information on the quality of the drinking water supplied and of other waters relevant to the targets in this paragraph in the intervals between the publication of information under article 7, paragraph 2.

3. Within two years of becoming a Party, each Party shall establish and publish targets referred to in paragraph 2 of this article, and target dates for achieving them.

4. Where a long process of implementation is foreseen for the achievement of a target, intermediate or phased targets shall be set.

5. In order to promote the achievement of the targets referred to in paragraph 2 of this article, the Parties shall each:

(a) Establish national or local arrangements for coordination between their competent authorities;

(b) Develop water-management plans in transboundary, national and/or local contexts, preferably on the basis of catchment areas or groundwater aquifers. In doing so, they shall make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation. Such plans may be incorporated in other relevant plans, programmes or documents which are being drawn up for other purposes, provided that they enable the public to see clearly the proposals for achieving the targets referred to in this article and the respective target dates;

(c) Establish and maintain a legal and institutional framework for monitoring and enforcing standards for the quality of drinking water;

(d) Establish and maintain arrangements, including, where appropriate, legal and institutional arrangements, for monitoring, promoting the achievement of and, where necessary, enforcing the other standards and levels of performance for which targets referred to in paragraph 2 of this article are set.

Article 7
Review and Assessment of Progress

1. The Parties shall each collect and evaluate data on:

(a) Their progress towards the achievement of the targets referred to in article 6, paragraph 2;

(b) Indicators that are designed to show how far that progress has contributed towards preventing, controlling or reducing water-related disease.

2. The Parties shall each publish periodically the results of this collection and evaluation of data. The frequency of such publication shall be established by the Meeting of the Parties.

3. The Parties shall each ensure that the results of water and effluent sampling carried out for the purpose of this collection of data are available to the public.

4. On the basis of this collection and evaluation of data, each Party shall review periodically the progress made in achieving the targets referred to in article 6, paragraph 2, and publish an assessment of that progress. The frequency of such reviews shall be established by the Meeting of the Parties. Without prejudice to the possibility of more frequent reviews under article 6, paragraph 2, reviews under this paragraph shall include a review of the targets referred to in article 6, paragraph 2, with a view to improving the targets in the light of scientific and technical knowledge.

5. Each Party shall provide to the secretariat referred to in article 17, for circulation to the other Parties, a summary report of the data collected and evaluated and the assessment of the progress achieved. Such reports shall be in accordance with guidelines established by the Meeting of the Parties. These guidelines shall provide that the Parties can use for this purpose reports covering the relevant information produced for other international forums.

6. The Meeting of the Parties shall evaluate progress in implementing this Protocol on the basis of such summary reports.

Article 8
Response Systems

1. The Parties shall each, as appropriate, ensure that:

(a) Comprehensive national and/or local surveillance and early-warning systems are established, improved or maintained which will:

(i) Identify outbreaks or incidents of water-related disease or significant threats of such outbreaks or incidents, including those resulting from water-pollution incidents or extreme weather events;

(ii) Give prompt and clear notification to the relevant public authorities about such outbreaks, incidents or threats;

(iii) In the event of any imminent threat to public health from water-related disease, disseminate to members of the public who may be affected all information that is held by a public authority and that could help the public to prevent or mitigate harm;

(iv) Make recommendations to the relevant public authorities and, where appropriate, to the public about preventive and remedial actions;

(b) Comprehensive national and local contingency plans for responses to such outbreaks, incidents and risks are properly prepared in due time;

(c) The relevant public authorities have the necessary capacity to respond to such outbreaks, incidents or risks in accordance with the relevant contingency plan.

2. Surveillance and early-warning systems, contingency plans and response capacities in relation to water-related disease may be combined with those in relation to other matters.

3. Within three years of becoming a Party, each Party shall have established the surveillance and early-warning systems, contingency plans and response capacities referred to in paragraph 1 of this article.

Article 9
Public Awareness, Education, Training, Research and Development and Information

1. The Parties shall take steps designed to enhance the awareness of all sectors of the public regarding:

(a) The importance of, and the relationship between, water management and public health;

(b) The rights and entitlements to water and corresponding obligations under private and public law of natural and legal persons and institutions, whether in the public sector or the private sector, as well as their moral obligations to contribute to the protection of the water environment and the conservation of water resources.

2. The Parties shall promote:
(a) Understanding of the public-health aspects of their work by those responsible for water management, water supply and sanitation; and

(b) Understanding of the basic principles of water management, water supply and sanitation by those responsible for public health.

3. The Parties shall encourage the education and training of the professional and technical staff who are needed for managing water resources and for operating systems of water supply and sanitation, and encourage the updating and improvement of their knowledge and skills. This education and training shall include relevant aspects of public health.

4. The Parties shall encourage:
(a) Research into, and development of, cost-effective means and techniques for the prevention, control and reduction of water-related disease;

(b) Development of integrated information systems to handle information about long-term trends, current concerns and past problems and successful solutions to them in the field of water and health, and provision of such information to competent authorities.

Article 10
Public Information

1. As a complement to the requirements of this Protocol for Parties to publish specific information or documents, each Party shall take steps within the framework of its legislation to make available to the public such information as is held by public authorities and is reasonably needed to inform public discussion of:
(a) The establishment of targets and of target dates for their achievement and the development of water-management plans in accordance with article 6;

(b) The establishment, improvement or maintenance of surveillance and early-warning systems and contingency plans in accordance with article 8;

(c) The promotion of public awareness, education, training, research, development and information in accordance with article 9.

2. Each Party shall ensure that public authorities, in response to a request for other information relevant to the implementation of this Protocol, make such information available within a reasonable time to the public, within the framework of national legislation.

3. The Parties shall ensure that information referred to in article 7, paragraph 4, and paragraph 1 of this article shall be available to the public at all reasonable times for inspection free of charge, and shall provide members of the public with reasonable facilities for obtaining from the Parties, on payment of reasonable charges, copies of such information.

4. Nothing in this Protocol shall require a public authority to publish information or make information available to the public if:
(a) The public authority does not hold the information;

(b) The request for the information is manifestly unreasonable or formulated in too general a manner; or

(c) The information concerns material in the course of completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest served by disclosure.

5. Nothing in this Protocol shall require a public authority to publish information or make information available to the public if disclosure of the information would adversely affect:
(a) The confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law;

(b) International relations, national defence or public security;

(c) The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(d) The confidentiality of commercial or industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions and discharges which are relevant for the protection of the environment shall be disclosed;

(e) Intellectual property rights;

(f) The confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law;

(g) The interests of a third party which has supplied the information requested without that party being under, or being capable of being put under, a legal obligation to do so, and where that party does not consent to the release of the material; or

(h) The environment to which the information relates, such as the breeding sites of rare species. These grounds for not disclosing information shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information relates to emissions and discharges into the environment.

Article 11
International Cooperation

The Parties shall cooperate and, as appropriate, assist each other:

(a) In international actions in support of the objectives of this Protocol;

(b) On request, in implementing national and local plans in pursuance of this Protocol.

Article 12
Joint and Coordinated International Action

In pursuance of article 11, subparagraph (a), the Parties shall promote cooperation in international action relating to:

(a) The development of commonly agreed targets for matters referred to in article 6, paragraph 2;

(b) The development of indicators for the purposes of article 7, paragraph 1 (b), to show how far action on water-related disease has been successful in preventing, controlling and reducing such disease;

(c) The establishment of joint or coordinated systems for surveillance and early-warning systems, contingency plans and response capacities as part of, or to complement, the national systems maintained in accordance with article 8 for the purpose of responding to outbreaks and incidents of water-related disease and significant threats of such outbreaks and incidents, especially from water-pollution incidents or extreme weather events;

(d) Mutual assistance in responding to outbreaks and incidents of water-related disease and significant threats of such outbreaks and incidents, especially from water-pollution incidents or extreme weather events;

(e) The development of integrated information systems and databases, exchange of information and sharing of technical and legal knowledge and experience;

(f) The prompt and clear notification by the competent authorities of one Party to the corresponding authorities of other Parties which may be affected of;
  (i) Outbreaks and incidents of water-related disease, and
  (ii) Significant threats of such outbreaks and incidents which have been identified;

(g) The exchange of information on effective means of disseminating to the public information about water-related disease.

Article 13
Cooperation in Relation to Transboundary Waters

1. Where any Parties border the same transboundary waters, as a complement to their other obligations under articles 11 and 12, they shall cooperate and, as appropriate, assist each other to prevent, control and reduce transboundary effects of water-related disease. In particular, they shall:

(a) Exchange information and share knowledge about the transboundary waters and the problems and risks which they present with the other Parties bordering the same waters;

(b) Endeavour to establish with the other Parties bordering the same transboundary waters joint or coordinated water-management plans in accordance with article 6, paragraph 5 (b), and surveillance and early-warning systems and contingency plans in accordance with article 8, paragraph 1, for the purpose of responding to outbreaks and incidents of water-related disease and significant threats of such outbreaks and incidents, especially from water-pollution incidents or extreme weather events;

(c) On the basis of equality and reciprocity, adapt their agreements and other arrangements regarding their transboundary waters in order to eliminate any contradictions with the basic principles of this Protocol and to define their mutual relations and conduct regarding the aims of this Protocol;

(d) Consult each other, at the request of any one of them, on the significance of any adverse effect on human health which may constitute a water-related disease.

2. Where the Parties concerned are Parties to the Convention, the cooperation and assistance in respect of any transboundary effects of water-related disease which are transboundary impacts shall take place in accordance with the provisions of the Convention.

Article 14
International Support for National Action

When cooperating and assisting each other in the implementation of national and local plans in pursuance of article 11, subparagraph (b), the Parties shall, in particular, consider how they can best help to promote:

(a) Preparation of water-management plans in transboundary, national and/or local contexts and of schemes for improving water supply and sanitation;

(b) Improved formulation of projects, especially infrastructure projects, in pursuance of such plans and schemes, in order to facilitate access to sources of finance;

(c) Effective execution of such projects;

(d) Establishment of systems for surveillance and early-warning systems, contingency plans and response capacities in relation to water-related disease;

(e) Preparation of legislation needed to support the implementation of this Protocol;

(f) Education and training of key professional and technical staff;

(g) Research into, and development of, cost-effective means and techniques for preventing, controlling and reducing water-related disease;

(h) Operation of effective networks to monitor and assess the provision and quality of water-related services, and development of integrated information systems and databases;

(i) Achievement of quality assurance for monitoring activities, including inter-laboratory comparability.

Article 15
Review of Compliance

The Parties shall review the compliance of the Parties with the provisions of this Protocol on the basis of the reviews and assessments referred to in article 7. Multilateral arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance shall be established by the Parties at their first meeting. These arrangements shall allow for appropriate public involvement.

Article 16
Meeting of the Parties

1. The first meeting of the Parties shall be convened no later than eighteen months after the date of the entry into force of this Protocol. Thereafter, ordinary meetings shall be held at regular intervals to be determined by the Parties, but at least every three years, except in so far as other arrangements are necessary to achieve the aims of paragraph 2 of this article. The Parties shall hold an extraordinary meeting if they so decide in the course of an ordinary meeting or at the written request of any Party, provided that, within six months of it being communicated to all Parties, the said request is supported by at least one third of the Parties.

2. Where possible, ordinary meetings of the Parties shall be held in conjunction with the meetings of the Parties to the Convention.

3. At their meetings, the Parties shall keep under continuous review the implementation of this Protocol, and, with this purpose in mind, shall:

(a) Review the policies for and methodological approaches to the prevention, control and reduction of water-related disease, promote their convergence, and strengthen transboundary and international cooperation in accordance with articles 11, 12, 13 and 14;

(b) Evaluate progress in implementing this Protocol on the basis of information provided by the Parties in accordance with guidelines established by the Meeting of the Parties. Such guidelines shall avoid duplication of effort in reporting requirements;

(c) Be kept informed on progress made in the implementation of the Convention;

(d) Exchange information with the Meeting of the Parties to the Convention, and consider the possibilities for joint action with it;

(e) Seek, where appropriate, the services of relevant bodies of the Economic Commission for Europe and of the Regional Committee for Europe of the World Health Organization;

(f) Establish the modalities for the participation of other competent international governmental and non-governmental bodies in all meetings and other activities pertinent to the achievement of the purposes of this Protocol;

(g) Consider the need for further provisions on access to information, public participation in decision-making and public access to judicial and administrative review of decisions within the scope of this Protocol, in the light of experience gained on these matters in other international forums;

(h) Establish a programme of work, including projects to be carried out jointly under this Protocol and the Convention, and set up any bodies needed to implement this programme of work;

(i) Consider and adopt guidelines and recommendations which promote the implementation of the provisions of this Protocol;

(j) At the first meeting, consider and by consensus adopt rules of procedure for their meetings. These rules of procedure shall contain provision to promote harmonious cooperation with the Meeting of the Parties to the Convention;

(k) Consider and adopt proposals for amendments to this Protocol;

(l) Consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

Article 17
Secretariat

1. The Executive Secretary of the Economic Commission for Europe and the Regional Director of the Regional Office for Europe of the World Health Organization shall carry out the following secretariat functions for this Protocol:

(a) The convening and preparing of meetings of the Parties;

(b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Protocol;

(c) The performance of such other functions as may be determined by the Meeting of the Parties on the basis of available resources.

2. The Executive Secretary of the Economic Commission for Europe and the Regional Director of the Regional Office for Europe of the World Health Organization shall:

(a) Set out details of their work-sharing arrangements in a Memorandum of Understanding, and inform the Meeting of the Parties accordingly;

(b) Report to the Parties on the elements of, and the modalities for carrying out, the programme of work referred to in article 16, paragraph 3.

Article 18
Amendments to the Protocol

1. Any Party may propose amendments to this Protocol.

2. Proposals for amendments to this Protocol shall be considered at a meeting of the Parties.

3. The text of any proposed amendment to this Protocol shall be submitted in writing to the secretariat, which shall communicate it to all Parties at least ninety days before the meeting at which it is proposed for adoption;

4. An amendment to this Protocol shall be adopted by consensus of the representatives of the Parties present at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance. The amendment shall enter into force for the Parties which have accepted it on the ninetieth day after the date on which two thirds of those Parties have deposited with the Depositary their instruments of acceptance of the amendment. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of acceptance of the amendment.

Article 19
Right to Vote

1. Except as provided for in paragraph 2 of this article, each Party shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 20
Settlement of Disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Protocol, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, a Party may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 of this article, it accepts one of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Where the Parties are Parties to the Convention, and have accepted as compulsory in relation to each other one or both of the means of dispute settlement provided in the Convention, the settlement of the dispute in accordance with the provisions of the Convention for the settlement of disputes arising in connection with the Convention;

(b) In any other case, the submission of the dispute to the International Court of Justice, unless the Parties agree to arbitration or some other form of dispute resolution.

Article 21
Signature

This Protocol shall be open for signature in London on 17 and 18 June 1999 on the occasion of the Third Ministerial Conference on Environment and Health, and thereafter at United Nations Headquarters in New York until 18 June 2000, by States members of the Economic Commission for Europe, by States members of the Regional Committee for Europe of the World Health Organization, by States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe or members of the Regional Committee for Europe of the World Health Organization to which their member States have transferred competence over matters governed by this Protocol, including the competence to enter into treaties in respect of these matters.

Article 22
Ratification, Acceptance, Approval and Accession

1. This Protocol shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.

2. This Protocol shall be open for accession by the States and organizations referred to in article 21.

3. Any organization referred to in article 21 which becomes a Party without any of its member States being a Party shall be bound by all the obligations under this Protocol. In the case of such organizations, one or more of whose member States is a Party, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under this Protocol concurrently.

4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 21 shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

5. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 23
Entry Into Force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 of this article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in article 21 which ratifies, accepts or approves this Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 24
Withdrawal

At any time after three years from the date on which this Protocol has come into force with respect to a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 25
Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Protocol.

Article 26
Authentic Texts

The original of this Protocol, of which the English, French, German and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE in London, this seventeenth day of June one thousand nine hundred and ninety-nine.

52. PROTOCOL ON CIVIL LIABILITY AND COMPENSATION FOR DAMAGE CAUSED BY THE TRANSBOUNDARY EFFECTS OF INDUSTRIAL ACCIDENTS ON TRANSBOUNDARY WATERS TO THE 1992 CONVENTION ON THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES AND TO THE 1992 CONVENTION ON THE TRANSBOUNDARY EFFECTS OF INDUSTRIAL ACCIDENTS

The Parties to the Protocol,

Recalling the relevant provisions of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, in particular its article 7, and of the Convention on the Transboundary Effects of Industrial Accidents, in particular its article 13,

Having in mind the relevant provisions of principles 13 and 16 of the Rio Declaration on Environment and Development,

Taking into account the polluter pays principle as a general principle of international environmental law, accepted also by the Parties to the above-mentioned Conventions,

Taking note of the UNECE Code of Conduct on Accidental Pollution of Transboundary Inland Waters,

Aware of the risk of damage to human health, property and the environment caused by the transboundary effects of industrial accidents,

Convinced of the need to provide for third-party liability and environmental liability in order to ensure that adequate and prompt compensation is available,

Acknowledging the desirability to review the Protocol at a later stage to broaden its scope of application as appropriate,

Have agreed as follows:

Article 1
Objective

The objective of the present Protocol is to provide for a comprehensive regime for civil liability and for adequate and prompt compensation for damage caused by the transboundary effects of industrial accidents on transboundary waters.

Article 2
Definitions

1. The definitions of terms contained in the Conventions apply to the present Protocol, unless expressly provided otherwise in the present Protocol.

2. For the purposes of the present Protocol:

(a) "The Conventions" means the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the Convention on the Transboundary Effects of Industrial Accidents, done at Helsinki on 17 March 1992;

(b) "Protocol" means the present Protocol;

(c) "Party" means a Contracting Party to the Protocol;

(d) "Damage" means:
  (i) Loss of life or personal injury;
  (ii) Loss of, or damage to, property other than property held by the person liable in accordance with the Protocol;
  (iii) Loss of income directly deriving from an impairment of a legally protected interest in any use of the transboundary waters for economic purposes, incurred as a result of impairment of the transboundary waters, taking into account savings and costs;
  (iv) The cost of measures of reinstatement of the impaired transboundary waters, limited to the costs of measures actually taken or to be undertaken;
  (v) The cost of response measures, including any loss or damage caused by such measures, to the extent that the damage was caused by the transboundary effects of an industrial accident on transboundary waters;

(e) "Industrial accident" means an event resulting from an uncontrolled development in the course of a hazardous activity:
  (i) In an installation, including tailing dams, for example during manufacture, use, storage, handling or disposal;
  (ii) During transportation on the site of a hazardous activity; or
  (iii) During off-site transportation via pipelines;

(f) "Hazardous activity" means any activity in which one or more hazardous substances are present or may be present in quantities at or in excess of the threshold quantities listed in annex I and which is capable of causing transboundary effects on transboundary waters and their water uses in the event of an industrial accident;

(g) "Measures of reinstatement" means any reasonable measures aiming to reinstate or restore damaged or destroyed components of transboundary waters to the conditions that would have existed had the industrial accident not occurred, or, where this is not possible, to introduce, where appropriate, the equivalent of these components into the transboundary waters. Domestic law may indicate who will be entitled to take such measures;

(h) "Response measures" means any reasonable measures taken by any person, including public authorities, following an industrial accident, to prevent, minimize or mitigate possible loss or damage or to arrange for environmental clean-up. Domestic law may indicate who will be entitled to take such measures;

(i) "Unit of account" means the special drawing right as defined by the International Monetary Fund.

Article 3
Scope of application

1. The Protocol shall apply to damage caused by the transboundary effects of an industrial accident on transboundary waters.

2. The Protocol shall apply only to damage suffered in a Party other than the Party where the industrial accident has occurred.

Article 4
Strict liability

1. The operator shall be liable for the damage caused by an industrial accident.

2. No liability in accordance with this article shall attach to the operator, if he or she proves that, despite there being in place appropriate safety measures, the damage was:

(a) The result of an act of armed conflict, hostilities, civil war or insurrection;

(b) The result of a natural phenomenon of exceptional, inevitable, unforeseeable and irresistible character;

(c) Wholly the result of compliance with a compulsory measure of a public authority of the Party where the industrial accident has occurred; or

(d) Wholly the result of the wrongful intentional conduct of a third party.

3. If the person who has suffered the damage or a person for whom he or she is responsible under domestic law has by his or her own fault caused the damage or contributed to it, the compensation may be reduced or disallowed having regard to all the circumstances.

4. If two or more operators are liable according to this article, the claimant shall have the right to seek full compensation for the damage from any or all of the operators liable. However, the operator who proves that only part of the damage was caused by an industrial accident shall be liable for that part of the damage only.

Article 5
Fault-based liability

Without prejudice to article 4, and in accordance with the relevant rules of applicable domestic law including laws on the liability of servants and agents, any person shall be liable for damage caused or contributed to by his or her wrongful intentional, reckless or negligent acts or omissions.

Article 6
Response measures

1. Subject to any requirement of applicable domestic law and other relevant provisions of the Conventions, the operator shall take, following an industrial accident, all reasonable response measures.

2. Notwithstanding any other provision in the Protocol, any person other than the operator acting for the sole purpose of taking response measures, provided that this person acted reasonably and in accordance with applicable domestic law, is not thereby subject to liability under the Protocol.

Article 7
Right of recourse

1. Any person liable under the Protocol shall be entitled to a right of recourse in accordance with the rules of procedure of the competent court or arbitral tribunal established under article 14 against any other person also liable under the Protocol.

2. Nothing in the Protocol shall prejudice any right of recourse to which the person liable might be entitled either as expressly provided for in contractual arrangements or pursuant to the law of the competent court.

Article 8
Implementation

1. The Parties shall adopt any legislative, regulatory and administrative measures that may be necessary to implement the Protocol.

2. In order to promote transparency, the Parties shall inform the secretariat, as defined in article 22, of any such measures taken to implement the Protocol.

3. The provisions of the Protocol and measures adopted under paragraph 1 shall be applied among the Parties without discrimination based on nationality, domicile or residence.

4. The Parties shall provide for close cooperation in order to promote the implementation of the Protocol according to their obligations under international law.

5. Without prejudice to existing international obligations, the Parties shall provide for access to information and access to justice accordingly, with due regard to the legitimate interest of the person holding the information, in order to promote the objective of the Protocol.

Article 9
Financial limits

1. The liability under article 4 is limited to the amounts specified in part one of annex II. Such limits shall not include any interests or costs awarded by the competent court.

2. The limits of liability specified in part one of annex II shall be reviewed by the Meeting of the Parties on a regular basis taking into account the risks of hazardous activities as well as the nature, quantity and properties of the hazardous substances that are present or may be present in such activities.

3. There shall be no financial limit on liability under article 5.

Article 10
Time limit of liability

1. Claims for compensation under the Protocol shall not be admissible unless they are brought within fifteen years from the date of the industrial accident.

2. Claims for compensation under the Protocol shall not be admissible unless they are brought within three years from the date that the claimant knew or ought reasonably to have known of the damage and of the person liable, provided that the time limits established pursuant to paragraph 1 are not exceeded.

3. Where the industrial accident consists of a series of occurrences having the same origin, time limits established pursuant to this article shall run from the date of the last of such occurrences. Where the industrial accident consists of a continuous occurrence, such time limits shall run from the end of that continuous occurrence.

Article 11
Financial security

1. The operator shall ensure that liability under article 4 for amounts not less than the minimum limits for financial securities specified in part two of annex II is and shall remain covered by financial security such as insurance, bonds or other financial guarantees including financial mechanisms providing compensation in the event of insolvency. In addition, Parties may fulfil their obligation under this paragraph with respect to State-owned operators by a declaration of self-insurance.

2. The minimum limits for financial securities specified in part two of annex II shall be reviewed by the Meeting of the Parties on a regular basis taking into account the risks of hazardous activities as well as the nature, quantity and properties of the hazardous substances that are present or may be present in such activities.

3. Any claim under the Protocol may be asserted directly against any person providing financial cover under paragraph 1. The insurer or the person providing the financial cover shall have the right to require the person liable under article 4 to be joined in the proceedings. Insurers and persons providing financial cover may invoke the defences that the person liable under article 4 would be entitled to invoke. Nothing in this paragraph shall prevent the use of deductibles or co-payments as between the insurer and the insured, but the failure of the insured to pay any deductible or co-payment shall not be a defence against the person who has suffered the damage.

4. Notwithstanding paragraph 3, a Party shall by written notification to the Depositary at the time of signature, ratification, approval of or accession to the Protocol, indicate if it does not provide for a right to bring a direct action pursuant to paragraph 3. The secretariat shall maintain a record of the Parties that have given notification pursuant to this paragraph.

Article 12
International responsibility of States

The Protocol shall not affect the rights and obligations of the Parties under the rules of general international law with respect to the international responsibility of States.

PROCEDURES

Article 13
Competent courts

1. Claims for compensation under the Protocol may be brought in the courts of a Party only where:

(a) The damage was suffered;

(b) The industrial accident occurred; or

(c) The defendant has his or her habitual residence, or, if the defendant is a company or other legal person or an association of natural or legal persons, where it has its principal place of business, its statutory seat or central administration.

2. Each Party shall ensure that its courts possess the necessary competence to entertain such claims for compensation.

Article 14
Arbitration

In the event of a dispute between persons claiming for damage pursuant to the Protocol and persons liable under the Protocol, and where agreed by both or all parties, the dispute may be submitted to final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment.

Article 15
Lis pendens - related actions

1. Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Parties, any court other than the court first seized shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seized is established.

2. Where the jurisdiction of the court first seized is established, any court other than the court first seized shall decline jurisdiction in favour of that court.

3. Where related actions are pending in the courts of different Parties, any court other than the court first seized may stay its proceedings.

4. Where these actions are pending at first instance, any court other than the court first seized may also, on the application of one of the parties, decline jurisdiction if the court first seized has jurisdiction over the actions in question and its law permits the consolidation thereof.

5. For the purposes of this article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements resulting from separate proceedings.

Article 16
Applicable law

1. Subject to paragraph 2, all matters of substance or procedure regarding claims before the competent court which are not specifically regulated in the Protocol shall be governed by the law of that court, including any rules of such law relating to conflict of laws.

2. At the request of the person who has suffered the damage, all matters of substance regarding claims before the competent court shall be governed by the law of the Party where the industrial accident has occurred, as if the damage had been suffered in that Party.

Article 17
Relationship between the Protocol and the applicable domestic law

The Protocol is without prejudice to any rights of persons who have suffered damage or to any measures for the protection or reinstatement of the environment that may be provided under applicable domestic law.

Article 18
Mutual recognition and enforcement of judgements and arbitral awards

1. Any judgement of a court having jurisdiction in accordance with article 13 or any arbitral award which is enforceable in the State of origin of the judgement and is no longer subject to ordinary forms of review shall be recognized in any Party as soon as the formalities required in that Party have been completed, except:

(a) Where the judgement or arbitral award was obtained by fraud;

(b) Where the defendant was not given reasonable notice and a fair opportunity to present his or her case;

(c) Where the judgement or arbitral award is irreconcilable with an earlier judgement or arbitral award validly pronounced in another Party with regard to the same cause of action and the same parties; or

(d) Where the judgement or arbitral award is contrary to the public policy of the Party in which its recognition is sought.

2. A judgement or arbitral award recognized under paragraph 1 shall be enforceable in each Party as soon as the formalities required in that Party have been completed. The formalities shall not permit the merits of the case to be reopened.

3. The provisions of paragraphs 1 and 2 shall not apply between Parties to an agreement or arrangement in force on the mutual recognition and enforcement of judgements or arbitral awards under which the judgement or arbitral award would be recognizable and enforceable.

Article 19
Relationship between the Protocol and bilateral, multilateral or regional liability agreements

Whenever the provisions of the Protocol and the provisions of a bilateral, multilateral or regional agreement apply to liability and compensation for damage caused by the transboundary effects of industrial accidents on transboundary waters, the Protocol shall not apply provided the other agreement is in force for the Parties concerned and had been opened for signature when the Protocol was opened for signature, even if the agreement was amended afterwards.

Article 20
Relationship between the Protocol and the rules of the European Community on jurisdiction, recognitionand enforcement of judgements

1. The courts of Parties which are members of the European Community shall apply the relevant Community rules instead of article 13, whenever the defendant is domiciled in a member State of the European Community, or the parties have attributed jurisdiction to a court of a member State of the European Community and one or more of the parties is domiciled in a member State of the European Community.

2. In their mutual relations, Parties which are members of the European Community shall apply the relevant Community rules instead of articles 15 and 18.

FINAL CLAUSES

Article 21
Meeting of the Parties

1. A Meeting of the Parties is hereby established.

2. The first meeting of the Parties shall be convened no later than eighteen months after the date of the entry into force of the Protocol and, if possible, in conjunction with a meeting of the governing body of one of the Conventions. Thereafter, ordinary meetings shall be held at dates to be determined by the Meeting of the Parties to the Protocol and, as appropriate, in conjunction with a meeting of the governing body of one of the Conventions. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by the Meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall adopt by consensus rules of procedure for their meetings and consider any necessary financial provisions.

4. The functions of the Meeting of the Parties shall be:

(a) To review the implementation of and compliance with the Protocol including relevant case law provided by the Parties;

(b) To consider and adopt, if necessary, proposals for amendment of the Protocol or any annexes and for any new annexes;

(c) To consider and undertake any additional action that may be required for the purposes of the Protocol.

Article 22
Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions for the Protocol:

(a) The convening and preparing of meetings of the Parties;

(b) The transmission to the Parties of reports and other information received in accordance with the provisions of the Protocol;

(c) The performance of such other functions as may be determined by the Meeting of the Parties on the basis of available resources.

Article 23
Annexes

Annexes to the Protocol shall constitute an integral part thereof.

Article 24
Amendments to the Protocol

1. Any Party may propose amendments to the Protocol.

2. Proposals for amendments to the Protocol shall be considered at a meeting of the Parties.

3. Any proposed amendment to the Protocol shall be submitted in writing to the secretariat, which shall communicate it at least six months before the meeting at which it is proposed for adoption to all Parties, to other States and regional economic integration organizations that have consented to be bound by the Protocol and for which it has not yet entered into force and to Signatories.

4. The Parties shall make every effort to reach agreement on any proposed amendment to the Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

5. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. Any amendment to the Protocol adopted in accordance with paragraph 4 shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties, to other States and regional economic integration organizations that have consented to be bound by the Protocol and for which it has not yet entered into force and to Signatories.

7. An amendment, other than one to annex I or II, shall enter into force for those Parties having

ratified, accepted or approved it on the ninetieth day after the date of receipt by the Depositary of the instruments of ratification, acceptance or approval by at least three fourths of those which were Parties on the date of its adoption. Thereafter it shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

8. In the case of an amendment to annex I or II, a Party that does not accept such an amendment shall so notify the Depositary in writing within twelve months from the date of its circulation by the Depositary. The Depositary shall without delay inform all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance, whereupon the amendment to annex I or II shall enter into force for that Party.

9. On the expiry of twelve months from the date of its circulation by the Depositary as provided for in paragraph 6, an amendment to annex I or II shall enter into force for those Parties which have not submitted a notification to the Depositary in accordance with paragraph 8, provided that, at that time, not more than one third of those which were Parties on the date of the adoption of the amendment have submitted such a notification.

10. If an amendment to an annex is directly related to an amendment to the Protocol not referring to annex I, II or III, it shall not enter into force until such time as the amendment to the Protocol enters into force.

Article 25
Right to vote

1. Except as provided for in paragraph 2, each Party shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 26
Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of the Protocol, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to the Protocol, or at any time thereafter, a Party may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in annex III.

3. If the parties to the dispute have accepted both means of dispute settlements referred to in paragraph 2, the dispute may be submitted only to the International Court of Justice, unless the parties to the dispute agree otherwise.

Article 27
Signature

1. The Protocol shall be open for signature at Kiev (Ukraine) from 21 to 23 May 2003 and thereafter at United Nations Headquarters in New York until 31 December 2003 by States members of the Economic Commission for Europe, as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by the Protocol, including the competence to enter into treaties in respect of these matters.

2. Upon signature, a regional economic integration organization shall make a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to that organization by its member States, the nature and extent of that competence, including the competence to enter into treaties in respect of these matters.

Article 28
Ratification, acceptance, approval and accession

1. The Protocol shall be subject to ratification, acceptance or approval by the signatory States and regional economic integration organizations referred to in article 27, provided that the States and organizations concerned are Parties to one or both of the Conventions.

2. The Protocol shall be open for accession by the States and organizations referred to in article 27, provided that the States and organizations concerned are Parties to one or both of the Conventions.

3. Any other State, not referred to in paragraph 2, that is Member of the United Nations may accede to the Protocol upon approval by the Meeting of the Parties. In its instrument of accession, such a State shall make a declaration stating that approval for its accession to the Protocol had been obtained from the Meeting of the Parties and shall specify the date on which approval was received.

4. Any organization referred to in article 27 which becomes a Party to the Protocol without any of its member States being a Party shall be bound by all the obligations under the Protocol. If one or more of such organization's member States is a Party to the Protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under the Protocol concurrently. 5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 27 shall declare the extent of their competence with respect to the matters governed by the Protocol. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

Article 29
Entry into force

1. The Protocol shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. Article 2, paragraph 2 (e) (iii), shall take effect when thresholds, limits of liability and minimum limits of financial securities for pipelines are set in annexes I and II in accordance with article 24, paragraphs 8 and 9.

3. For the purposes of paragraph 1, any instrument deposited by an organization referred to in article 27 shall not be counted as additional to those deposited by States members of such an organization.

4. For each State or organization referred to in article 27 which ratifies, accepts or approves the Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 30
Reservations

No reservation may be made to the Protocol.

Article 31
Withdrawal

1. At any time after three years from the date on which the Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary.

2. Any such withdrawal shall take effect one year from the date of its receipt by the Depositary, or on such later date as may be specified in the notification.

Article 32
Depositary

The Secretary-General of the United Nations shall act as the Depositary of the Protocol.

Article 33
Authentic texts

The original of the Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the Protocol.

DONE at Kiev, this twenty-first day of May, two thousand and three.

ANNEX I and II not included

Annex III
ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 26, paragraph 2, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the articles of the Protocol whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to the Protocol.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of the Protocol.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information;

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

13. The arbitral tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to the Protocol which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to the Protocol.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

53. CONVENTION FOR THE CONSERVATION OF THE BIODIVERSITY AND PROTECTION OF PRIORITY WILDERNESS AREAS IN CENTRAL AMERICA

The Presidents of the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama,

PREAMBLE

AWARE of the need to establish mechanisms for economic integration and cooperation for the sound use of environment in the Isthmus, owing to the close interdependence among our countries;

WISHING to protect and conserve the natural resources of aesthetic interest, historic value and scientific importance that our ecosystems represent (unique resources that are of regional and global importance and have the potential to provide sustainable development options for our societies);

AFFIRMING that the conservation of biodiversity is a matter of concern to all persons and States;

NOTING that biological diversity has been seriously reduced and that some species and ecosystems are endangered;

EMPHASIZING that the conservation of natural habitats and the maintenance of populations of flora and fauna species must be carried out *in situ* as well as *ex situ*;

AWARE of the existing relationship between conservation and sustainable development, and reaffirming their determination to take strong actions to deal with the preservation, recovery, restoration and sound use of our ecosystems, including threatened species of flora and fauna;

CONVINCED that improving the quality of life among the peoples of the Isthmus necessarily requires encouraging respect for nature and the law and promoting the consolidation of peace and the sustainable use and recovery of natural resources;

UNDERSCORING that, in ensuring sustainable development, the creation, management and strengthening of protected areas play an important role in guaranteeing the reproduction of essential ecological processes and rural development;

RECOGNIZING the Central American Commission on Environment and Development (CCAD) as the most suitable entity to formulate strategies and action plans to put into practice decisions on care for the environment;

SUPPORTING the search for financial mechanisms to provide concrete backing for all initiatives in the field of natural resources conservation, including those in which friendly countries contribute appropriately;

Have decided to sign the present Convention, which shall be called:

Convention for the Conservation of the Biodiversity and Protection of Priority Wilderness Areas in Central America

CHAPTER I
FUNDAMENTAL PRINCIPLES

Article 1
Objective

The objective of this Convention is to conserve, in so far as possible, the biological, land and coastal-marine diversity in the Central American region for the benefit of present and future generations.

Article 2

The signatory States of this Convention reaffirm their sovereign right to conserve and use their own biological resources in accordance with their own policies and regulations on the following basis:

a. Conserve and make sustainable use of their biological resources for social purposes; and
b. Ensure that the activities under their jurisdiction or control do not cause harm to the biological diversity in their States or areas that border on their national jurisdiction.

Article 3

Biodiversity conservation in border habitats or waters calls for the determination of all and external, regional and global cooperation, in additional to efforts that the nations carry out; consequently, the international community is invited to participate technically and financially in our efforts.

Article 4

The fundamental requirements for the conservation of biological resources are in situ conservation of ecosystems and natural habitats and ex situ measures that can be taken in each country of origin of such resources.

Article 5

The value of the contribution that biological resources and the maintenance of biological diversity make to economic and social development should be recognized and reflected in the economic and financial arrangements among countries of the region, and between them and others that cooperate in their conservation and use.

Article 6

Knowledge of biological diversity and the efficient management of protected areas should be promoted in the region. The benefit of research and development derived from bio-materials or from management in protected areas should be made available to society as a whole.

Article 7

The knowledge, practices and technological innovations that are developed by native groups in the region and contribute to the sustainable use of biological resources and their conservation should be recognized and recovered.

Article 8

Access to genetic material, substances, products derived from them, related technology and their conservation shall be open, under the jurisdiction and control of the States and within mutual agreements established with recognized organizations.

Article 9

Definitions. For purposes of this regional Convention, the most important terms will be used with the following definitions:

Protected Area: a defined land or coastal-marine area that is designated, regulated and managed to achieve certain specific conservation objectives; that is, to produce a specific number of goods and services (*in situ* conservation).

Biodiversity or Biological Diversity: All the species of flora, fauna or other living organisms, their genetic variability and the ecological complexes to which they belong.

Conservation: Sustainable presentation, maintenance and restoration of the elements of biodiversity.

Ex situ conservation: The conservation of biological diversity components (genetic material or organisms) outside their natural environment.

Ecosystem: complex of plant, animal and microorganism communities and their non-living environment interacting as an ecological unit.

Endangered species: A species that is threatened or in danger of becoming extinct and will not survive if the causing factors continue operating.

Genetic material: any material of plants, animals, microorganisms or other origin that contains units of hereditary information.

Habitat: Place or site where an organism or population naturally occurs.

CHAPTER II
GENERAL OBLIGATIONS

Article 10

Each member State of this regional Convention commits itself, in accordance with its capacities, national programmes and priorities, to take all possible measures to ensure the conservation of biodiversity and its sustainable use, as well as the development of its components within its national jurisdiction, and to cooperate, to the extent of its possibilities, in regional border activities.

Article 11

The member States shall take pertinent actions to incorporate the guidelines for and the socioeconomic value of the conservation of biological resources into their respective development policies and plans.

Article 12

The institutions in the countries of the Central American region shall cooperate to an appropriate extent with the regional and international institutions to mutually support each other in fulfilling the obligations assumed in the present Convention, including those related to aspects of biotechnology, health, and food security.

Article 13

The following actions should be taken in order to comply fully with the present Convention:

a. Cooperate with the Central American Commission on Environment and Development , CCAD, in the development of measures, procedures, technologies, practices and standards for the regional implementation of the present Convention.

b. Implement economic and legal measures to favour the sustainable use and development of the components of biological diversity.

c. Ensure the establishment of measures that will contribute to conserving natural habitats and their populations of natural species.

d. Promote, individually or in cooperation with other States and international organizations, new and additional funds to support the implementation of national and regional programmes and activities related to the conservation of biodiversity.

e. Promote and support scientific research in national universities and regional research centres, in conjunction with interested international organizations.

f. Promote public awareness in each nation of the need to conserve, use sustainably and develop the biological wealth in the region.

g. Facilitate the exchange of information among

national institutions, the countries of the Central American region and other international organizations.

CHAPTER III
IMPLEMENTATION MEASURES

Article 14

Each country of the region should develop its own conservation and development strategies, among which the conservation of biodiversity and the creation and management of protected areas should be of priority.

Article 15

The conservation and sustainable use of biological resources should be integrated as rapidly as possible and appropriate into the relevant policies and programmes in other sectors.

Article 16

The preparation of a national law on the conservation and sustainable use of the components of biodiversity will be encouraged in each country in the Central American region.

Article 17

National parks, natural and cultural monuments, wildlife refuges and other protected areas should be identified, selected, created, managed and strengthened, as soon as possible in the respective countries through the institutions in charge, as instruments to guarantee the conservation of representative samples of the principal ecosystems of the Isthmus, with priority for those that contain water producing forests.

Article 18

Within this Convention and on a priority basis, border protected areas shall be developed and strengthened in the following land and coastal regions known as:

- The Maya Biosphere Reserve
- The Fraternidad or Trifinio Biosphere Reserve
- The Gulf of Honduras
- The Gulf of Fonseca
- The Rio Coco or Solidaridad Reserve
- The Miskitos Keys
- The International System of Protected Areas for Peace, SIAPAZ
- The Bahia Salinas Reserve
- The Amistad Biosphere Reserve
- The Sixaola Reserve
- The Darien Region

Article 19

National strategies should be developed to implement plans for systems of protected wilderness areas as guarantors of basic economic functions for local, regional and global development and for strengthening institutional presence in the areas mentioned; consequently, steps shall be taken to obtain national and international funding for their effective implementation.

Article 20

The Central American Commission on Environment and Development (CCAD) is entrusted with the responsibility of taking the initiative to update and stimulate appropriate implementation of the "1989-2000 Plan of Action" to create and strengthen the Central American System of Protected Areas (SICAP), as well as the conservation activities of the "Tropical Forestry Action Plan in the Central America Region". For that purpose, it should increase its links with the International Union for the Conservation of Nature (IUCN) and with other regional institutions, in coordination with the national institutions and governments of the Isthmus.

Article 21

A Central American Council on Protected Areas, associated with the Central American Commission on Environment and Development, should be created with people and institutions related to the World Commission on Protected Areas (WCPA) and financed by the Regional Fund on Environment and Development, to be in charge of coordinating regional efforts to standardize policies linked with the development of the Regional System of Protected Areas as an effective Mesoamerican biological corridor.

Article 22

Environmentally compatible development practices in the areas surrounding the protected areas should be promoted by all possible means, not only to support the conservation of biological resources, but also to contribute to sustainable rural development.

Article 23

Rehabilitation and restoration of both land and species through the implementation of plans and other management strategies shall be promoted.

Article 24

Mechanisms for the control or eradication of all exotic species that threaten wilderness ecosystems, habitats and species should be established.

Article 25

Greater efforts should be made to see that each of the States in the region ratifies, as soon as possible, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (RAMSAR), and the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, providing all the guarantees for internal compliance with them.

Article 26

Mechanisms to strengthen the control and halt the illicit traffic of wild fauna and flora among the countries of the region, as well as the traffic of toxic wastes or substances, shall be studied, developed and unified, in coordination with the Central American Commission on Environment and Development (CCAD).

Article 27

Each country of the region shall make the most appropriate efforts to supplement *in situ* conservation activities through:

a. The establishment and strengthening of facilities for the *ex situ* conservation of plants, animals and microorganisms, such as botanic gardens, germplasm banks, nurseries, animal breeding facilities and experimental farms.

b. The regulation and control of biological resources collection in natural habitats for purposes of *ex situ* conservation, so as not to affect their *in situ* conservation.

c. The regulation of its own legislation and the national marketing of biological resources.

Article 28

Activities to strengthen ecotourism in the region shall be supported as a mechanism through which the economic potential of protected areas is valuated, part of their financing is guaranteed, and contributions are made to improve the quality of life of the populations adjacent to such areas. To that end, migration and infrastructure facilities to encourage ecotourism in border zones should be implemented.

Article 29

Appropriate procedures should be introduced in each of the countries of the region to assess the environmental effects of development policies, programmes, projects and proposed activities, in order to minimize them.

Article 30

Initiatives for the socio-environmental management of and environmental impact studies on colonization, repatriation and settlement processes for displaced person in regions affected by said processes shall be supported. Also, ecological restoration projects should be developed in zones affected by armed conflicts.

Article 31

The development and dissemination of new technologies for the conservation and sustainable use of biological resources and the correct use of the land and river basins should be promoted and encouraged, so as to create and consolidate options for regional sustainable agriculture and food security.

Article 32

Preferential and concessional treatment from the international community should be requested in order to favour technology access and transfer between the developed countries and the Central American countries and facilitate such access and transfer among the countries of the region.

Article 33

Information exchange on actions that are potentially harmful to biological resources and might be carried out in territories under their jurisdiction should be promoted on a reciprocity basis, so that the most appropriate bilateral or regional measures may be evaluated among the affected countries.

Article 34

It is recognized that there is an immediate need to underscore the importance of having suitably trained human resources to increase the quality and quantity of activities to restore ecological balance in the region and, at the same time, to invite and support national, regional and foreign scientific-technological institutions and universities to increase their efforts in the study and valuation of biodiversity, as well as in the updating of information on endangered species in each of the countries in the region.

Article 35

The importance of citizen participation in biodiversity conservation activities is recognized; consequently promote the development of education materials to be disseminated by mass media and included in public and private education programmes under way.

Article 36

The Central American Commission on Environment and Development (CCAD) has the mandate to request the support of international organizations or governments of friendly countries to develop updated lists on protected areas, threatened species and habitats, institutions linked to biodiversity conservation and priority projects in this field.

Article 37

Nothing in this Convention shall affect the rights and obligations of the Central American States derived from the existence of prior international conventions related to the conservation of biological resources and protected areas.

Article 38

The national institutions that form the Central American Commission on Environment and Development (CCAD) are indicated as being responsible for surveillance of the implementation of the present Convention, and the CCAD is entrusted with the responsibility of submitting annual progress reports to the Summit of Central American Presidents.

CHAPTER IV
GENERAL PROVISIONS

Article 39
Ratification

This Convention shall be submitted to the member States for ratification, in conformity with the internal regulations of each country.

Article 40
Accession

This Convention is open to accession by the States in the Mesoamerican region.

Article 41
Depositary

The instruments of ratification of, accession to and withdrawal from this Convention and its amendments shall be deposited in the Foreign Affairs Ministry of the Republic of Guatemala, which shall send a certified copy of the instruments to the Foreign Affairs Ministries of the remaining member States.

Article 42
Entry into Force

For the first three depositor States, the present Convention shall enter into force eight days following the date on which the third instrument of ratification is deposited, and for the remaining signatory or adhering countries, on the date their respective instruments are deposited.

Article 43
Registration

Once this Convention and its amendments have entered into force, the Foreign Affairs Ministry of Guatemala shall proceed to send a certified copy of these documents to the Secretariat of the United Nations for the purposes of registration indicated in article 102 of the Charter of the United Nations.

Article 44
Duration

This Convention shall have a duration of ten years as of the date on which it enters into force and shall be renewed for successive periods of ten years.

Article 45
Withdrawal

Any State Party to this Convention may withdraw from it. The withdrawal shall become effective for the withdrawing country six months after the withdrawal notification has been deposited, and the Convention shall continue in force for the other States as long as at least three of them remain Parties to it.

DONE AT the celebration of International Environment Day, 5 June 1992, during the Twelfth Summit of Central American Presidents in Managua, Republic of Nicaragua.

Unofficial translation

54. REGIONAL AGREEMENT ON TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES

PREAMBLE

The Governments of the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama,

Considering that there is evidence of being steps taken by natural and legal persons to import hazardous wastes into the Central American region and recognizing the need to take immediate action in relation to the illegal traffic of wastes,

Aware of the irreversible damage to human health and natural resources that may be caused,

Recognizing the sovereign right of the States to ban the import and transit of hazardous wastes to or through their territories for reasons of health and environmental safety,

Recognizing also the increasing consensus in Central America on banning transboundary movements of hazardous wastes and their disposal,

Convinced further that it is necessary to issue regulations that will effectively control the transboundary movements of hazardous waste,

Expressing also their commitment to responsibly address the problem of hazardous wastes originating within and outside the Central American region, and

Taking into account the Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) in Cairo, in accordance with resolution 14/30 of 17 June 1987; the recommendation of the United Nations Committee of Experts on the Transport of Dangerous Goods (1957); the Charter of Human Rights; instruments and regulations adopted in the United Nations system; relevant articles in the BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL (1989), which enables the establishment of regional agreements that can be equal to or more restrictive that the provisions in the Basel Convention; Article 39 of the Lome IV Convention relating to the international movement of hazardous wastes and radioactive wastes; pertinent recommendations formulated by the Central American Commission on Environment and Development (CCAD) and the Central American Interparliamentary Commission on Environment and Development (CICAD); and studies and proposals presented by regional and international organizations,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

1. **"Hazardous Wastes"** are the substances included in any of the categories of Annex I, or that have the characteristics indicated in Annex II of this Agreement; as well as substances considered hazardous in the local laws of the Exporter, Importer or Transit State and any hazardous substances that may have been banned or whose registry certification has been cancelled or rejected by governmental regulation or voluntarily withdrawn in the country where it was manufactured for reasons of human health or environmental protection.

2. **"Transboundary Movement"** is any movement of hazardous wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement.

3. **"Disposal"** means any operation specified in Annex III to this Agreement.

4. **"Area under the national jurisdiction of a State"** means any land, marine area or air space within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment.

5. **"State of export"** is any State from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

6. **"State of import"** is any State to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State.

7. **"State of transit"** means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place.

8. **"Carrier"** means any natural or legal person who carries out the transport of hazardous wastes.

9. **"Illegal Traffic"** means any transboundary movement of hazardous wastes in contravention of the provisions established in this Agreement, in the national laws of the States Parties to it and in the rules and principles of international law.

10. **"Dumping at sea"** means the deliberate disposal at sea of hazardous wastes from vessels, aircraft, platforms or other man-made structures at sea, including incineration at sea and disposal on or under the sea bed.

Article 2
Scope of Application of this Agreement

1. This Agreement shall apply to the transboundary movement of hazardous wastes in the Central American region.

2. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments applying specifically to radioactive materials, are excluded from the scope of this Agreement.

3. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are also excluded from the scope of this Agreement.

4. This Agreement recognizes the sovereignty of the States over their territorial sea, sea-lanes and airspace established in accordance with international law and the jurisdiction that the States exercise over their exclusive economic zones and their continental shelves, in accordance with international law and the exercise by ships and aircraft of all States of navigation rights and freedoms, as provided for in international law and as reflected in pertinent international instruments.

Article 3
General Obligations

1. Prohibition of Importing Hazardous Wastes:
The Central American countries signing this Agreement shall take all legal, administrative or other appropriate measures within the areas under their jurisdiction to prohibit the import and transit of wastes considered hazardous to or through Central America from countries not Parties to this Agreement. To fulfil the objectives of this Agreement, the Parties shall:

a) Send the Secretariat of the Central American Commission on Environment and Development (CCAD), as soon as possible, all information related to the import activities of such hazardous wastes and the Secretariat shall distribute said information to all the representatives who are delegates to the Commission.

b) Cooperate so that hazardous waste imports do not enter a State Party to this Agreement.

2. Prohibition of Dumping Hazardous Wastes at Sea and in Inland Waters:
The Parties, in accordance with the related international conventions and instruments, in exercising their jurisdiction over their inland waters, sea-lanes, territorial seas, exclusive economic zones and continental shelves, shall adopt the legal, administrative and other appropriate measures to control all carriers from States not Parties to the Agreement and shall prohibit the dumping of hazardous wastes at sea, including their incineration at sea and their disposal on or under the sea bed.

3. Adoption of Preventive Measures:
Each of the Parties shall make efforts to adopt and implement a preventive and precautionary approach to pollution problems. The purpose of said approach shall be, among other objectives, to prevent the release into the environment of substances that could cause damage to human beings or to the environment. The Parties shall cooperate with each other in taking appropriate measures to apply the precautionary approach to preventing pollution through the implementation of cleaner production methods or, otherwise, an approach related to allowable or tolerable emissions.

4. Obligations regarding the Transboundary Transport and Movement of Hazardous Wastes Generated by the Parties:
The Parties shall not allow the export of hazardous wastes to States that have prohibited their import, in accordance with their domestic legislation, or have signed international agreements to that effect, or if they have reason to believe that the wastes in question will not be managed in an environmentally sound manner, in accordance with the guidelines and principles adopted by the United Nations Environment Programme (UNEP).

5. Furthermore:

a) The Parties commit themselves to demand compliance with the obligations of this Agreement and/or international law from all Parties.

b) The Parties may impose additional requirements in their respective domestic legislation that are consistent with the provisions in this Agreement in order to protect human health and the environment.

Article 4
Illegal Traffic

1. Traffic shall be considered illegal in accordance with the definition in this Agreement.

2. Each Party shall advocate specific regulations in its national legislation to impose penalties on all those who plan, commit or contribute to such

illegal traffic. These penalties shall be sufficiently severe to punish and discourage such conduct.

Article 5
National Authority

Each Contracting Party shall designate a national authority to follow up on, update and implement this Agreement, and the national authority shall be in communication with the Central American Commission on Environment and Development (CCAD) and with other regional and international organizations in all matters related to the movement of hazardous wastes; the name of the national authority shall be provided in the each State's ratification document.

Article 6
General Provisions

1. **Ratification.** This Agreement shall be submitted to the member States for ratification, in conformity with the domestic regulations of each State.

2. **Accession.** This Agreement is open to accession by the States of the Mesoamerican Region.

3. **Depositary.** The instruments of ratification or accession to and withdrawal for this Agreement and its amendments shall be deposited in the Foreign Affairs Ministry of the Republic of Guatemala, which will send a certified copy to the instruments to the Foreign Affairs Ministries of the remaining member States.

4. **Entry into Force.** For the first three depositing States, this Agreement shall enter into force eight days following the date on which the third instrument of ratification is deposited, and for the remaining signatory or adhering States, on the date of deposit of their respective instruments.

5. **Registration.** Upon the entry into force of this Agreement and its amendments, the Executive Secretariat of the Central American Commission on Environment and Development (CCAD) shall proceed to send a certified copy to of the documents to the Secretariat of the United Nations for the purposes of registration indicated in Article 102 of the United Nations Charter.

6. **Duration.** This Agreement shall have a duration of 10 years as of the date on which it enters into force and it shall be renewed for successive 10-year periods.

7. **Withdrawal.** Any of the States Parties to this Agreement may withdraw from it. The withdrawal shall be effective for the withdrawing State six months after the date on which withdrawal notification is deposited and the Agreement shall remain in force for the remaining States as long as at least three of them remain Parties to it.

8. **Review.** For purposes of updating Annexes I, II and III in the light of technological and scientific development, the substances and activities contained in the annexes may be reviewed at the request of three member countries of this Agreement.

For related purposes, Annexes I, II and III are attached to this Agreement as an integral part of it.

IN WITNESS WHEREOF this Agreement is signed in Panama City, Republic of Panama, in six authentic copies, this eleventh day of December, 1992.

ANNEX I
CATEGORIES OF HAZARDOUS WASTES

Waste streams:

Y0	All the wastes that contain or are polluted by radionucleides whose concentration or properties may be the result of human activity
Y1	Clinical wastes from medical care in hospitals, medical centres and clinics
Y2	Wastes from the production and preparation of pharmaceutical products
Y3	Waste pharmaceuticals, drugs and medicines
Y4	Wastes from the production, formulation and use of biocides and phytopharmaceuticals
Y5	Wastes from the manufacture, formulation and use of wood preserving chemicals
Y6	Wastes from the production, formulation and use of organic solvents
Y7	Wastes from heat treatment and tempering operations containing cyanides
Y8	Waste mineral oils unfit for their originally intended use
Y9	Waste oil/water, hydrocarbons/water mixtures, emulsions
Y10	Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
Y11	Waste tarry residues arising from refining, distillation and any pyrolytic treatment
Y12	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
Y13	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
Y14	Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
Y15	Wastes of an explosive nature not subject to other legislation
Y16	Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics
Y18 Residues arising from industrial waste disposal operations
Y46 Wastes collected from households, including sewage and sewage sludge
Y47 Residues arising from the incineration of household wastes

Wastes having as constituents:

Y19 Metal carbonyls
Y20 Beryllium; beryllium compounds
Y21 Hexavalent chromium compounds
Y22 Copper compounds
Y23 Zinc compounds
Y24 Arsenic; arsenic compounds
Y25 Selenium; selenium compounds
Y26 Cadmium; cadmium compounds
Y27 Antimony; antimony compounds
Y28 Tellurium; tellurium compounds
Y29 Mercury; mercury compounds
Y30 Thallium; thallium compounds
Y31 Lead; lead compounds
Y32 Inorganic fluorine compounds excluding calcium fluoride
Y33 Inorganic cyanides
Y34 Acidic solutions or acids in solid form
Y35 Basic solutions or bases in solid form
Y36 Asbestos (dust and fibres)
Y37 Organic phosphorus compounds
Y38 Organic cyanides
Y39 Phenols; phenol compounds including chlorophenols
Y40 Ethers
Y41 Halogenated organic solvents
Y42 Organic solvents excluding halogenated solvents
Y43 Any congenor of polychlorinated dibenzo-furan
Y44 Any congenor of polycholorinated dibenzo-p-dioxin
Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

ANNEX II
LIST OF HAZARDOUS CHARACTERISTICS

UN Class	Code	Characteristics
1	H1	Explosive. An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the surroundings.
3	H3	Flammable liquids. The word "flammable "has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 C, closed-cup test, or not more that 65.6 C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition).
4.1	H4.1	Flammable solids. Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion. Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases. Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

5.1	H5.1	Oxidizing. Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause or contribute to the combustion of other materials.
5.2	H5.2	Organic peroxides. Organic substances or wastes which contain the bivalent -O-O- structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (acute) Substances or wastes liable either to cause death or serious injury or to harm health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infection substances. Substances or wastes containing viable microorganisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives. Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water. Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (delayed or chronic). Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic. Substances or wastes which, if released, present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

ANNEX III
DISPOSAL OPERATIONS WHICH DO NOT LEAD TO THE RECOVERY OF RESOURCES (D1-D15) AND RECYCLING, RECLAMATION, DIRECT RE-USE OR OTHER RESOURCES (D16-D28)

D1 Deposit into or onto land (e.g., landfill, etc.)
D2 Land treatment (e.g., biodegradation of liquid or sludgy discards in soils, etc.)
D3 Deep injection (e.g., injection of pumpable discards into wells, salt domes of naturally occurring repositories, etc.)
D4 Surface impoundment (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
D5 Specially engineered landfill (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
D6 Release into a water body except seas/oceans
D7 Release into seas/oceans including sea-bed insertion
D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in this Annex
D9 Physico-chemical treatment not specified elsewhere in the Annex which results in final compounds or mixtures which are discarded by means of any of the operations in this Annex (e.g., evaporation, drying, calcination, neutralization, precipitation, etc.)
D10 Incineration on land
D11 Incineration at sea
D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
D13 Blending or mixing prior to submission to any of the operations in this Annex

D14 Repackaging prior to submission to any of the operations in this Annex
D15 Storage pending any of the operations in this Annex
D16 Use as fuel (other than in direct incineration) or other means to generate energy
D17 Solvent reclamation/regeneration
D18 Recycling/reclamation of organic substances which are not used as solvents
D19 Recycling/reclamation of metals and metal compounds
D20 Recycling/reclamation of other inorganic materials
D21 Regeneration of acids or bases
D22 Recovery of components used for pollution abatement
D23 Recovery of components from catalysts
D24 Used oil re-refining or other reuses of previously used oil
D25 Land treatment resulting in benefit to agriculture or ecological improvement
D26 Uses of residual materials obtained from any of the operations from D1 to D25
D27 Exchange of wastes for submission to any of the operations numbered D1 to D26
D28 Accumulation of material intended for any operation in this Annex

55. REGIONAL CONVENTION FOR THE MANAGEMENT AND CONSERVATION OF THE NATURAL FOREST ECOSYSTEMS AND THE DEVELOPMENT OF FOREST PLANTATIONS IN CENTRAL AMERICA

PREAMBLE

Considering:

That the Tegucigalpa Protocol, which institutes the Central American Integration system (SICA) reaffirms, among its objectives "To establish concerted actions directed to the preservation of the environment through respect and harmony with nature, ensuring a balanced development and rational exploitation of the region's natural resources with the perspective to establish a New Ecological Order in the region";

That the forestry development potential of Central America is based on its existing 19 million hectares of natural forests and in its 13 million hectares of lands with forestry potential that are presently without forests;

That the wealth and diversity of the different life zones and species found in the region's tropical forests, linked to its isthmic nature, as a bridge between the continental masses of North and South America, make this Central American Region the most important deposit of genetic wealth and biological diversity in the world;

That, in contrast with this wealth, there is another reality at present, more than 20 million Central Americans live in poverty conditions, particularly those 14 million that live in extreme poverty conditions since they cannot even satisfy their basic needs of nutrition. It is important to point out that two thirds of the poor live in rural areas;

That, every day, in the region, it becomes more evident that poverty worsens forest and local environmental degradation, and increases even more with the external debt and the loss in the terms of exchange, all products of an unbalanced growth in the previous decades;

That in the rural sector, the concentration of land is even greater than what the indices show since, frequently, the best lands are occupied by those that have the means and technology to exploit them, relegating the poor to poor quality land, basically on the hill sides. This is the habitual cause for deforestation and the high levels of erosion and soil loss observed in the region, which lead to an even greater empoverishment of those who work these areas;

That a frontal attack on poverty is a fundamental part of the restructuring and modernizing strategies of the economy;

This strategy requires the massive incorporation of technical progress in productive efficiency and greater social equity, to increase the quality of life of this poor majority, and to facilitate and support their absolute access to the productive and investment processes and to increase their productive performance;

The forest resources which cover 45% of the regional territory and the soils with forestry potential, which add up to 60% of the region, must play a prevailing role in this strategy;

The despite this potential, it is estimated that about 416,000 hectares per year are deforested (48 hectares per hour), at a rate that increases over time;

The deforestation in the upper watersheds has provoked erosion, floods, drought, losses in the agricultural and forestry potentials, and losses in biodiversity, whose joint effects limit the development opportunities and worsen rural poverty, thus reducing the quality of life of Central Americans;

That the high levels of external indebtedness and the subsequent debt service charges reduce the possibility of long-term investment, particularly that which is associated with the sustainable development of natural resources and, rather increases the pressure on them and on the soil resource which runs the risk of over-exploitation for the production of high input and short-term crops which can generate the foreign exchange required to serve that debt;

That the potential of the Central American forests to produce goods and services is not being value in its just dimension, nor is it used in a rational and sustainable manner. The genetic diversity, the scenic value, their potential to produce timber and non-timber goods can be the basis for not only conserving forest resources, but also for making them contribute, in a significant and sustainable manner, to abate underdevelopment in Central America;

That the forest resource must contribute to increase the quality of life of the Central American people through the fostering and promotion of national and regional actions conducive to decreasing its loss, ensuring its rational use and to establish the mechanisms required to revert the process of its destruction.

AGREE ON THE FOLLOWING CONVENTION:

CHAPTER I
FUNDAMENTAL PRINCIPLES

Article 1
Principle

According to the United Nations Charter and the principles of international law; the signing States of this Convention, reaffirm their sovereign right to proceed to use, manage and develop their forests in agreement with their own policies and regulations, as a function of:

(a) Their needs for development.

(b) Conserving and sustainability using their forestry potential as a social and economic function.

(c) Ensuring that the activities under each control and jurisdiction, do not cause environmental damages to the country nor to other countries in the region.

(d) Strengthening the application of policies and strategies contained in the Forestry Action Plans of each of the Member Countries. Therefore,The Convention and its derived Programs must not affect the activities that each country is carrying out in its forest areas, nor its access to financial resources from international agencies.

Article 2
Objective

The objective of the present Convention is to promote national and regional mechanisms that will prevent a change in land use of those areas covered with forests that are occupying lands with forestry potential, and to recover those deforested areas, to establish a homogeneous soil classification systems, through the reorientation of settlement policies in forest lands, the discouragement of actions that propitiate forest destruction in lands with a forestry potential, and the promotion of a land-use planning process and of sustainable options.

CHAPTER II
POLICIES FOR THE SUSTAINABLE DEVELOPMENT OF THE FOREST RESOURCE

Article 3

The Contracting States of this Convention commit themselves to:

(a) Maintaining the options open to sustainable development for the Central American countries, through the consolidation of a National and Regional system of Protected Wildlands, that ensure the conservation of biodiversity, the maintenance of vital ecological processes, and the utilization of sustainable flows of goods and services of their natural forest ecosystems.

(b) Orienting national and regional agricultural programs under an integral vision, where the forest and the trees constitute a basic element of productivity and the soils are used according to their best aptitude.

(c) Orienting national and regional forest management programs under a conservationist view, where:
   (i) The rehabilitation of degraded and secondary forests has high priority since they constitute an abundant forest mass in the region, with an already established infrastructure, which represent a great potential for improving the standard of living for two thirds of the poor that live in the rural areas.
   (ii) The management of the primary natural forests acts as a buffer to stop or reduce pressures to their conversion to other land uses.

(d) Orientating national and regional reforestation programs to cover degraded lands, preferably of forestry amptitude and presently under agricultural use, such that they can provide multiple uses to different land users, giving preference to the promotion of native species, and to the local participation in planning, implementation and distribution of benefits. These programs must give priority to the supply of fuelwood for domestic consumption, and to other forest products of local community use.

(e) Making the necessary efforts to maintaining a dynamic large-scale inventory of the forest cover in the countries of the region.

CHAPTER III
FINANCIAL ASPECTS

Article 4

The Contracting States of this Convention must:

(a) Propitiate the creation of Specific National Funds such that, since the moment they are conceived, they can financially support national priorities identified on the basis of the objectives outlined in Chapter II.

(b) Create mechanisms that ensure three-investment of income generated by the forest resource (timber use, ecotourism, potable water supply, hydroelectric production, biotechnology, and others).

(c) Create mechanisms that, according to the possibilities of each country, ensure credit access to groups such as ethnic groups, women, youth, civic associations, local communities, and other vulnerable groups, in a manner such, that they can develop programs according to the features of this Convention. This should also be applicable to specific national funds such as those in the system of financial intermediaries already in existence.

(d) Strengthen international negotiating processes (commerce, external debt administration, bilateral and multilateral cooperation) such that they can channel financial resources destined to strengthen these funds.

(e) Propitiate the necessary methodological modifications in the System of National Accounts in each country, that will allow for the introduction of environmental parameters that will allow for the value and depreciation of forest resources and soils in estimating the economic growth indicators in each country (the Gross National Product).

(f) Establish mechanisms to a void the illegal traffic of flora and fauna species, timber and other products. Particular emphasis should be dedicated to the control of illegal commerce in the border areas between countries of the region.

CHAPTER IV
PARTICULAR PARTICIPATION

Article 5

The States of the Region must:

(a) Promote the participation of all interesting parties, including local communities and indigenous populations, private enterprise, workers, professional associations, nongovernmental organizations, and individuals, and the inhabitants of forested areas, in the planning, implementation and evaluation of national policy resultant from this Convention.

(b) Recognize and duly support the cultural diversity, respecting the rights, obligations and needs of indigenous peoples, their communities and those of other inhabitants of forested areas.

CHAPTER V
INSTITUTIONAL STRENGTHENING

Article 6

The Contracting States of the present Convention must:

(a) Strengthen the sectorial and inter-sectorial coordinating mechanisms in order to impel sustainable development.

(b) Strengthen the forestry development institutional framework in each country, through the adoption of the National Tropical Forestry Action Plans, as mechanisms to reach the objectives of this Convention.

(c) Create environmental attorney general's offices in the legal framework of each country, that will watch for the protection and improvement of the forest resource.

(d) Create, by law, through the respective legislative powers, the obligation to carry out environmental impact studies in forest areas where large scale forestry concessions, or other economic activities are being proposed, that may have a negative impact on the forest.

(e) Profit from the comparative advantages of each country, propitiating their transfer to the rest of the countries.

(f) Strengthen the region's technical capacity through training and applied research programs, and the promotion of forestry techniques in productive and planning activities.

(g) Data on infrastructure and necessary means to ensure quantity and quality of forestry seeds that may be needed.

(h) Data on the personnel necessary for the vigilance and conservation of national forests.

CHAPTER VI
REGIONAL COORDINATION

Article 7

The Central American Commission on Environment and Development (CCAD) is instructed to implement a Central American Council on Forests in conjunction with the National Administrations of Environment and Development, integrated by Forest Service Directors of each country, the National Coordinators of the Tropical Forestry Action Plans, or the authority designated by each State, who together will have the responsibility of the follow-up of this Convention.

Article 8

CCAD is given the mandate to request support from international organizations or friendly governments, in order to fund coordinating activities for the implementation of this Convention.

CHAPTER VII
GENERAL RESOLUTIONS

Article 9
Ratification

The present convention shall be submitted to ratification by the signatory States, according to the internal standards of each country.

Article 10
Adherence

The present Convention remains open to the adherence of other States of the Mesoamerican Region.

Article 11
Depositary

The instruments of ratifications or of adhesion and denunciation of the present convention and its amendments, shall be deposited and registered in the General Secretariat of the Central American Integration System (SICA), who will communicate them to the Chancelleries of the rest of the Contracting States.

Article 12
State of Being in Force

The present convention shall be in force on the date the fourth instrument of ratification has been deposited. For each State that ratifies or adheres to the Convention, after the fourth instruments of ratification has been deposited, it will be in force, for that State, on the date its instrument of ratification is deposited.

Article 13
Registration in the United Nations

When this Convention and its amendment are in force, the General Secretariat of SICA shall proceed to send a certified copy of these, to the General Secretariat of the United Nations, for the purposes of registration that are indicated in Article 102 of this Organization.

Article 14
Denunciation

The present Convention shall be denounced when any Contracting State so decides. The denunciation shall have effect, for the denouncer State, 180 days after it has been deposited and the Convention shall continue in force for the rest of the States, as long as at least three of them remain adhered to it.

In witness whereof, the present Convention is signed in the City of Guatemala, Republic of Guatemala on the twenty ninth day of the month of October, nineteen ninety three.

Unofficial Translation

56. REGIONAL AGREEMENT ON CLIMATE CHANGE

PREAMBLE

The Ministers of Foreign Affairs of the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama,

AWARE of the need to establish regional economic integration and cooperation mechanisms for the sound use of the environment in the Isthmus, owing to the deep interdependence among our States;

CONVINCED that improvement in the quality of life of the peoples on the Isthmus will require encouraging respect for nature and the law and advocating the consolidation of peace and the sustainable use and recovery of natural resources;

RECOGNIZING that non-natural or anthropogenic changes in the earth's climate and their adverse effects are a common concern among all of humanity;

CONCERNED that human activities have been substantially increasing the concentrations of greenhouse gases in the atmosphere and that this increase is intensifying the natural greenhouse effect, which will, on average, result in additional warming of the earth's surface and atmosphere and may adversely affect natural ecosystems and humanity;

NOTING that there are many factors of uncertainty in climate change predictions, particularly with regard to its chronological distribution, its magnitude and its regional characteristics;

RECOGNIZING that the global scope of climate change calls for the widest possible cooperation of all countries and their participation in an effective and appropriate international response, in conformity with their common responsibilities and their social and economic conditions;

RECALLING that the States, in conformity with the Charter of the United Nations and the principles of international law, have the sovereign right to exploit their own resources in accordance with their own environmental and development policies, and the responsibility to ensure that the activities carried out in their jurisdiction or under their control do not cause damage to the environment of other States or zones that are outside the limits of national jurisdiction;

REAFFIRMING the principle of the sovereignty of States in international cooperation to address climate change;

RECOGNIZING that the necessary measure to address climate change will reach their maximum efficiency in environment, social and economic matters if they are based on the pertinent consideration of a scientific, technical and economic nature and are continually reappraised in the light of new discoveries in the field;

RECOGNIZING ALSO that States such as those on the Central American Isthmus, with low coastal zones, zones exposed to flooding and drought, and mountain ecosystems, are particularly vulnerable to the adverse effects of climate change;

AFFIRMING that the responses to climate change should be coordinated in a integrated manner with social and economic development, with a view to preventing adverse effects on them, and taking into full account the legitimate priority needs of our States to achieve sustained economic growth and the eradication of poverty;

DETERMINED to protect the climate system for present and future generations;

CHAPTER I
FUNDAMENTAL PRINCIPLES

Article 1
Objective

The States must protect the climate system to benefit present and future generations on the basis of equity and in conformity with their responsibilities and their capacities to ensure that food production is not threatened and to enable the economic development of the States to continue.

Article 2
Definitions

For purposes of this regional agreement, the most important terms will be used with the following meanings:

"CLIMATE CHANGE" means a change in climate that is directly or indirectly attributable to human activity that alters the composition of the world's atmosphere and joins the natural variability in climate observed during comparable periods of time.

"CLIMATE SYSTEM" means the aggregate of the atmosphere, the hydrosphere, the biosphere, the geosphere and their interactions.

"EMISSIONS" means the release of greenhouse gases or their precursors into the atmosphere in a specific area and period of time.

"GREENHOUSE GASES" means both natural and anthropogenic gaseous components in the atmosphere that absorb and remit infrared radiation.

Article 3

The Contracting States of this Agreement reaffirm their sovereign right to conserve and use their own natural resources, including the climate, in accordance with their own policies and regulations, as a means of

ensuring that the activities under their jurisdiction of control do not increase global climate change.

Article 4

The conservation of climate conditions requires the will of all and external, regional and global cooperation, in addition to the efforts that the nations of the Central America Isthmus carry out; consequently, the international community is invited to participate technically and financially in our efforts.

Article 5

The conservation of climate conditions not altered by man is of fundamental importance to the conservation of natural resources.

Article 6

The value of conserving climate conditions must be recognized and reflected in economic and financial arrangements among countries in the region, and between them and the multilateral credit institutions and other organizations that cooperate in climate conservation and use.

Article 7

In the region, knowledge of the parameters that regulate climate should be stimulated and scientific research should be increased,supporting and strengthening the Meteorological and Hydrometeorological srvices that generate information on the climate.

Article 8

The knowledge, practices and technological innovations that are developed by the Central American region and contribute to climate protection should be recognized and improved.

CHAPTER II
GENERAL OBLIGATIONS

Article 9

Each Contracting State, in accordance with its capacities, national programmes and priorities, commits itself to taking all possible measures to ensure conservation of the climate, as well as the development of its components within it national jurisdiction and, to the extent of its possibilities, to cooperate in border and regional activities.

Article 10

Through the Meteorological and Hydrometeorological Services, the Contracting States shall take all pertinent measures to incorporate into their development policies and plans guidelines to carry out systematic monitoring of variations in the corresponding climate parameters.

Article 11

The institutions in the Contracting States shall cooperate to an appropriate extent with regional and international institutions to provide mutual support in fulfilling the obligations related to climate monitoring and conservation assumed in the present Agreement.

Article 12

To fully comply with this Agreement, the Contracting Parties should:

a. Cooperate with the Central American Commission on Environment and Development (CCAD) and the Regional Committee on Water Resources of the Central American Isthmus (CRRH) and support their Meteorological and Hydrometeorological Services in developing measures, procedures, technology, practices and standards for the regional implementation of this Agreement.

b. Implement legal and economic measures and incentives to encourage research on climate change and climate conservation.

c. Provide, individually or in cooperation with other States and international organizations, new and additional funds to support the implementation of national and regional programmes and activities related to climate change.

d. Promote and support, together with interested international organizations, scientific research at the Meteorological and Hydrometeorological Services in the region, as well as at national and private universities and national and regional research centres.

e. Promote public awareness in each nation of the need to conserve the climate in the region.

f. Facilitate the exchange of information on climate among national institutions, States of the Central American region, their neighbouring States and international organizations.

CHAPTER III
IMPLEMENTATION MEASURES

Article 13

States of the region should develop their own conservation and development strategies, among which climate conservation should be of priority.

Article 14

Climate conservation should be integrated into the relevant programme policies of other sectors as rapidly as possible and appropriate.

Article 15

Each State of the Central American Region shall encourage the enactment of a national for the conservation of the climate.

Article 16

The Meteorological and Hydrometeorological Services in the Isthmus, which generate data on climate, should be strengthened financially, technically and scientifically as soon as possible.

Article 17

National strategies to implement the plans derived from climate change monitoring should be developed to guarantee basic economic functions for local, regional and global development and to strengthening institutional presence; for that purpose, steps will be taken to obtain national and international financing for their effective implementation.

Article 18

The Central American Commission on Environment and Development (CCAD), in consultation with the Regional Committee on Water Resources and the Meteorological Services, is entrusted with the responsibility of taking the initiative in consolidating a 1993-2005 plan of action to create and strengthen a Central American system for climate change monitoring in the Central American region and, for that purpose, it should increase its links with international climate change research and monitoring programmes and with other regional institutions capable of contributing ideas to this plan.

Article 19

A Central American Council on Climate Change (CCCC) should be established as an associate entity of the Central American Commission on Environment And Development (CCAD) and the Regional Committee on Water Resources of the Central American Isthmus (CRRH), formed by the Directors of the Meteorological Services of the States of the Central American Isthmus and financed by the Regional Fund for Environment and Development, as the entity in charge of coordinating regional efforts to standardize policies linked to the development of a regional system for climate change monitoring.

Article 20

Appropriate techniques and procedures to evaluate greenhouse gas emissions should be introduced in the region.

Article 21

The development and dissemination of new technologies for the conservation and sustainable use of natural resources, correct land use and watershed management should be promoted and stimulated to create and consolidate options for sustainable agriculture and regional food security that will not be at odds with the conservation of the climate system.

Article 22

Preferential and concessional treatment from the international community shall be requested to favour technology access and transfer conducive to reducing the gap between the developed States and the Central American States and helping the latter replace obsolete greenhouse gas generating practices with "clean technologies".

Article 23

Information exchange on activities that are potentially harmful to the climate system and may be carried out in the territories under their jurisdiction should be promoted on a reciprocity basis, so the affected States can evaluate the most appropriate bilateral or regional measures to be taken.

Article 24

The Central American Commission on Environment and Development (CCAD) and the Central American Council on Climate Change (CCCC) jointly have the mandate to seek support from international organizations or governments of friendly States to develop priority projects in the field of climate change.

Article 25

Nothing in the present Agreement shall affect the rights and obligations of the Contracting States derived from the existence of prior international conventions related to climate conservation.

Article 26

The national institutions that form the Central American Council on Climate Change and the Central American Commission on Environment and Development are designated as being responsible for monitoring the implementation of this Agreement and the former is entrusted with the responsibility of submitting annual progress reports to the Summit of Central American Presidents.

CHAPTER IV
GENERAL PROVISIONS

Article 27
Ratification

This Agreement shall be submitted to the Contracting States for ratification in conformity with their respective internal regulations.

Article 28
Accession

Accession to the present Agreement is open to the States of the Mesoamerican region.

Article 29
Depositary

The instruments of ratification of, accession to or notices of withdrawal from the present Agreement and its amendments shall be deposited in the Foreign Affairs Ministry of the Republic of Guatemala, which will send notification of these instruments to the other Contracting States.

Article 30
Entry into Force

The present Agreement shall enter into force on the date on which the fourth instrument of ratification has been deposited. For each State that ratifies or accedes to the Agreement after the fourth instrument of ratification has been deposited, it shall enter into for said State on the date of deposit of the respective instrument of ratification.

Article 31
Registration

When this Agreement and its amendments enter into force, the Foreign Affairs Ministry of Guatemala shall proceed to send a certified copy of them to the Secretariat of the United Nations for the purposes of registration indicated in article 102 of the Charter of the United Nations.

Article 32
Duration

This Agreement shall have a duration of ten years as of the date on which it enters into force and shall renew automatically for successive ten-year periods.

Article 33
Withdrawal

Any of the States Parties to this Agreement may withdraw from it. The withdrawal shall become effective for the withdrawing country 180 days after the notice of withdrawal has been deposited, and the Agreement shall remain in force for the remaining States, as long as at least three of them remain Parties to it.

IN WITNESS WHEREOF the present Agreement is signed in Guatemala City, Republic of Guatemala, on the twenty-ninth day of October 1993.

57. LUSAKA AGREEMENT ON COOPERATIVE ENFORCEMENT OPERATIONS DIRECTED AT ILLEGAL TRADE IN WILD FAUNA AND FLORA

PREAMBLE

THE PARTIES TO THIS AGREEMENT,

Conscious that the conservation of wild fauna and flora is essential to the overall maintenance of Africa's biological diversity and that wild fauna and flora are essential to the sustainable development of Africa,

Conscious also of the need to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Recognising that the intense poaching that has resulted in severe depletion of certain wildlife populations in African States has been caused by illegal trade, and that poaching will not be curtailed until such illegal trade is eliminated,

Noting that illegal trade in wild fauna and flora has been made more sophisticated through the use of superior technology in transboundary transactions and should be addressed through commensurate national, regional and international measures,

Recalling the provisions of the African Convention on the Conservation of Nature and Natural Resources (Algiers, 1968), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 1973), and the Convention on Biological Diversity (Rio de Janeiro, 1992),

Affirming that States are responsible for the conservation of their wild fauna and flora,

Recognising the need for co-operation among States in law enforcement to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Recognising also that sharing of information, training, experience and expertise among States is vital for effective law enforcement to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Desirous of establishing close co-operation among themselves in order to reduce and ultimately eliminate illegal trade in wild fauna and flora,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

"Agreement area" means the area comprised of the land, marine and coastal areas within the limits of national jurisdiction of the Parties to this Agreement and shall include their air space and internal waters.

"Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"Conservation" means the management of human use of organisms or ecosystems to ensure such use is sustainable; it also includes protection, maintenance, rehabilitation, restoration and enhancement.

"Country of original export" means the country where the specimens originated and from whose territory they depart or have departed.

"Country of re-export" means the country from whose territory specimens depart or have departed and that is not the country of origin of the specimens.

"Field Officer" means a member of a Government organisation, department or institution who is employed as a law enforcement officer with national law enforcement jurisdiction, and who is seconded to the Task Force.

"Governing Council" means the Governing Council established under Article 7 of this Agreement.

"Illegal trade" means any cross-border transaction, or any action in furtherance thereof, in violation of national laws of a Party to this Agreement for the protection of wild fauna and flora.

"National Bureau" means a governmental entity with the competence encompassing law enforcement, designated or established by a Party to this Agreement under Article 6.

"Party" means a State for which this Agreement has entered into force.

"Specimen" means any animal or plant, alive or dead, as well as any derivative thereof, of any species of wild fauna and flora.

"Task Force" means the Task Force established under Article 5 of this Agreement.

"Wild fauna and flora" means wild species of animals and plants subject to the respective national laws of

the Parties governing conservation, protection and trade.

Article 2
Objective

The objective of this Agreement is to reduce and ultimately eliminate illegal trade in wild fauna and flora and to establish a permanent Task Force for this purpose.

Article 3
Geographical Scope

This Agreement shall apply to the Agreement area as defined in Article 1.

Article 4
Obligations of the Parties

1. The Parties shall, individually and/or jointly, take appropriate measures in accordance with this Agreement to investigate and prosecute cases of illegal trade.

2. Each Party shall co-operate with one another and with the Task Force to ensure the effective implementation of this Agreement.

3. Each Party shall provide the Task Force on a regular basis with relevant information and scientific data relating to illegal trade.

4. Each Party shall provide the Task Force with technical assistance relating to its operations, as needed by the Task Force.

5. Each Party shall accord to the Director, Field Officers and the Intelligence Officer of the Task Force while engaged in carrying out the functions of the Task Force in accordance with paragraph 9 of Article 5, the relevant privileges and immunities, including those specified under paragraph 11 of Article 5.

6. Each Party shall protect information designated as confidential that becomes available to any of the Parties in connection with the implementation of this Agreement. Such information shall be used exclusively for the purposes of implementing this Agreement.

7. Each Party shall encourage public awareness campaigns aimed at enlisting public support for the objective of this Agreement, and the said campaigns shall be so designed as to encourage public reporting of illegal trade.

8. Each Party shall adopt and enforce such legislative and administrative measures as may be necessary for the purposes of giving effect to this Agreement.

9. Each Party shall return to the country of original export or country of re-export any specimen of species of wild fauna and flora confiscated in the course of illegal trade, provided that:
   (a) the country of original export of the specimen(s) can be determined; or

   (b) the country of re-export is able to show evidence that the specimen(s) re-exported were imported by that country in accordance with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora governing import and re-export; and

   (c) the costs of returning such specimens of wild fauna and flora are borne by the country receiving the specimen(s), unless there is an alternative offer to bear costs to which both the Party returning the specimen(s) and the Party receiving the specimen(s) agree.

10. Each Party shall pay its contribution to the budget of the Task Force as determined by the Governing Council.

11. Each Party shall report to the Governing Council on implementation of its obligations under this Agreement at intervals as determined by the Governing Council.

Article 5
Task Force

1. A Task Force is hereby established to be known as the Task Force for Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora.

2. The Task Force shall be composed of a Director, Field Officers and an Intelligence Officer and such other staff as may be decided by the Governing Council.

3. The Task Force shall include at least one Field Officer seconded by each Party and approved by the Governing Council. Each Field Officer shall be appointed to serve for a term of three years, or such other term as may be determined by the Governing Council. Upon the recommendation of the Director made in consultation with the Party concerned, the Governing Council may shorten or increase the term of other Field Officers.

4. The Director shall be appointed by the Governing Council from among the Field Officers.

5. The Director and other Field Officers shall retain their national law enforcement authority during their time of service with the Task Force.

6. The appointment of the Director, other Field Officers and the Intelligence Officer, as well as their terms of service, shall be decided in accordance with rules established by the

Governing Council. The terms and conditions of service of other support staff as deemed necessary for the functioning of the Task Force shall also be decided by the Governing Council.

7. The Director shall be the Chief Executive Officer of the Task Force and shall be accountable to the Governing Council and responsible for:

(a) appointing other support staff as deemed necessary for the functioning of the Task Force;

(b) commanding and coordinating the work of the Task Force;

(c) preparing budgets annually or as required by the Governing Council;

(d) implementing policies and decisions agreed by the Governing Council;

(e) providing reports annually and as required by the Governing Council;

(f) arranging for and servicing meetings of the Governing Council; and

(g) performing such other functions as may be determined by the Governing Council.

8. The Task Force shall possess international legal personality. It shall have in the territory of each Party the legal capacity required for the performance of its functions under this Agreement. The Task Force shall in the exercise of its legal personality be represented by the Director.

9. The functions of the Task Force shall be:

(a) to facilitate co-operative activities among the National Bureaus in carrying out investigations pertaining to illegal trade;

(b) to investigate violations of national laws pertaining to illegal trade, at the request of the National Bureaus or with the consent of the Parties concerned, and to present to them evidence gathered during such investigations;

(c) to collect, process and disseminate information on activities that pertain to illegal trade, including establishing and maintaining databases;

(d) to provide, upon request of the Parties concerned, available information related to the return to the country of original export, or country of re-export, of confiscated wild fauna and flora; and

(e) to perform such other functions as may be determined by the Governing Council.

10. In carrying out its functions, the Task Force, when necessary and appropriate, may use undercover operations, subject to the consent of the Parties concerned and under conditions agreed with the said Parties.

11. For the purposes of paragraph 9 of this Article, the Director, other Field Officers and the Intelligence Officer of the Task Force shall enjoy, in connection with their official duties and strictly within the limits of their official capacities, the following privileges and immunities:

(a) immunity from arrest, detention, search and seizure, and legal process of any kind in respect of words spoken or written and all acts performed by them; they shall continue to be so immune after the completion of their functions as officials of the Task Force;

(b) inviolability of all official papers, documents and equipment;

(c) exemption from all visa requirements and entry restrictions;

(d) protection of free communication to and from the headquarters of the Task Force;

(e) exemption from currency or exchange restrictions as is accorded representatives of foreign governments on temporary official missions; and

(f) such other privileges and immunities as may be determined by the Governing Council.

12. Privileges and immunities are granted to the Director, other Field Officers and the Intelligence Officer in the interests of the Task Force and not for the personal benefit of the individuals themselves. The Governing Council shall have the right and the duty to waive the immunity of any official in any case where, in the opinion of the Governing Council, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Task Force.

13. The Task Force shall not undertake or be involved in any intervention, or activities of a political, military, religious or racial character.

Article 6
National Bureau

1. To facilitate the implementation of this Agreement, each Party shall:

(a) designate or establish a governmental entity as its National Bureau;

(b) inform the Depositary, within two months of the date of the entry into force of the Agreement for this Party, the entity it has designated or established as its National Bureau; and

(c) inform the Depositary within one month of any decision to change the designation or establishment of its National Bureau.

2. For the purposes of this Agreement, the functions of the National Bureaus shall be to:

(a) provide to and receive from the Task Force information on illegal trade; and

(b) coordinate with the Task Force on investigations that involve illegal trade.

Article 7
Governing Council

1. A Governing Council consisting of the Parties to this Agreement is hereby established to be known as the Governing Council for Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora.

2. Each Party shall send a delegation to the meetings of the Governing Council and shall be represented on the Governing Council by a Minister or alternate who shall be the head of the delegation. Because of the technical nature of the Task Force, Parties should endeavour to include the following in their delegations:

(a) high ranking officials dealing with wildlife law enforcement affairs;

(b) officials whose normal duties are connected with the activities of the Task Force; and

(c) specialists in the subjects on the agenda.

3. The first meeting of the Governing Council shall be convened by the Executive Director of the United Nations Environment Programme not later than three months after the entry into force of this Agreement. Thereafter, ordinary meetings of the Governing Council shall be held at regular intervals to be determined by the Council at its first meeting.

4. Meetings of the Governing Council will normally be held at the Seat of the Task Force unless the Council decides otherwise.

5. Extraordinary meetings of the Governing Council shall be held at such times as may be determined by the Council, or at the written request of any Party, provided that such request is supported by at least one third of the Parties within two months of the request being communicated to them by the Director of the Task Force.

6. At its first meeting, the Governing Council shall:

(a) by consensus elect its Chairperson and adopt rules of procedure, including decision-making procedures, which may include specified majorities required for adoption of particular decisions;

(b) decide the Seat of the Task Force;

(c) consider and approve the appointment of the Director, other Field Officers and the Intelligence Officer and decide upon their terms and conditions of service as well as the terms and conditions of service of the supporting staff;

(d) adopt terms of reference and financial and administrative rules of the Task Force; and

(e) consider and approve an initial budget to establish and operate the Task Force and agree upon the contributions of each Party to the budget.

7. At ordinary meetings the Governing Council shall approve a budget for the Task Force and agree upon the contributions of each Party to the budget.

8. The Governing Council shall determine the general policies of the Task Force and, for this purpose, shall:

(a) consider the reports submitted by the Director; and

(b) upon expiry, termination or renewal of their terms of service, consider and approve the appointment of the Director, other Field Officers and the Intelligence Officer.

9. The Governing Council shall:

(a) keep under review the implementation of this Agreement;

(b) consider and undertake any additional action that may be deemed necessary for the achievement of the objective of this Agreement in the light of experience gained in its operation; and

(c) consider and adopt, as required, in accordance with Article 11, amendments to this Agreement.

Article 8
Financial Provisions

1. There shall be a budget for the Task Force.

2. The financial management of the Task Force shall be governed by the financial rules adopted by the Governing Council.

3. The Governing Council shall determine the mode of payment and currencies of contributions by the Parties to the budget of the Task Force. Other resources of the Task Force may include extra budgetary resources such as grants, donations, funds for projects and programmes and technical assistance.

4. The Parties undertake to pay annually their agreed contributions to the budget of the Task Force by a specified date as determined by the Governing Council.

5. The Unit of Account in which the budget will be prepared shall be determined by the Governing Council.

Article 9
Seat

1. The Seat of the Task Force shall be determined by the Governing Council pursuant to an offer made by a Party.

2. The Government of the Party in whose territory the Seat of the Task Force shall be located and the Director acting on behalf of the Task Force shall conclude a headquarters agreement relating to the legal capacity of the Task Force and the privileges and immunities of the Task Force, Director, other Field Officers and the Intelligence Officer, which privileges and immunities shall not be less than those accorded to diplomatic missions and their personnel in the host country, and including those privileges and immunities stipulated in paragraph 11 of Article 5.

3. The Government aforementioned shall assist the Task Force in the acquisition of affordable accommodation for its use.

Article 10
Settlement of Disputes

1. Any dispute concerning the interpretation or application of this Agreement which cannot be settled by negotiation, conciliation or other peaceful means may be referred by any Party thereto to the Governing Council.

2. Where the Parties fail to settle the dispute the matter shall be submitted to an arbitral body.

3. The Parties to the dispute shall appoint one arbitrator each; the arbitrators so appointed shall designate, by mutual consent, a neutral arbitrator as Chairperson who shall not be a national of any of the Parties to the dispute.

4. If any of the Parties does not appoint an arbitrator within three months of the appointment of the first arbitrator, or if the Chairperson has not been designated within three months of the matter being referred to arbitration, the Chairperson of the Governing Council shall designate the arbitrat or or the Chairperson or both, as the case may be, within a further period of three months.

5. The arbitral body shall have jurisdiction to hear and determine any matter arising from a dispute.

6. The arbitral body shall determine its own rules of procedure.

7. The Parties to the dispute shall be bound by the arbitral decision.

Article 11
Amendment

1. Amendments to the Agreement may be proposed by any Party and communicated in writing to the Director of the Task Force who shall transmit the proposals to all Parties. The Director shall also communicate proposed amendments to the signatories to this Agreement for information.

2. No proposal for amendment shall be considered by the Governing Council unless it is received by the Director at least one hundred and twenty days before the opening day of the meeting at which it is to be considered.

3. Amendments to the Agreement shall be adopted at a meeting of the Governing Council. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties present and voting at the meeting. Amendments shall take effect, with respect to the Parties, on the thirtieth day after their adoption by the Governing Council. Amendments adopted shall be notified to the Depositary forthwith.

Article 12
Signature, Ratification, Acceptance, Approval or Accession

1. This Agreement shall be open for signature on 9 September 1994 by all African States at the Ministerial Meeting to conclude this Agreement in Lusaka, and thereafter from 12 September to 12 December 1994 at the Headquarters of the United Nations Environment Programme in Nairobi, and from 13 December 1994 to 13 March 1995 at the United Nations Headquarters in New York.

2. This Agreement shall be subject to ratification, acceptance or approval.

3. This Agreement shall remain open for accession by any African State from the day after the date on which the Agreement is closed for signature.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 13
Entry into Force

1. This Agreement shall enter into force on the sixtieth day after the date of the deposit of the fourth instrument of ratification, acceptance, approval or accession.

2. For each Party which ratifies, accepts, approves or accedes to this Agreement after the deposit of the fourth instrument of ratification, acceptance, approval or accession, this Agreement shall enter

into force on the sixtieth day after the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 14
Withdrawal

1. At any time after five years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon the expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal provided, however, that any obligation incurred by the Party prior to its withdrawal shall remain valid for that Party.

Article 15
Depositary

1. The Secretary-General of the United Nations shall assume the functions of Depositary of this Agreement.

2. The Depositary shall notify all Parties to this Agreement of:

(a) the deposit of instruments of ratification, acceptance, approval or accession in accordance with Article 12;

(b) the designation or establishment of National Bureaus in accordance with Article 6;

(c) the amendments adopted in accordance with Article 11; and

(d) withdrawal in accordance with Article 14.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective governments, have signed this Agreement.

DONE AT LUSAKA on this ninth day of September, one thousand nine hundred and ninety-four.

58. AGREEMENT ON THE COOPERATION FOR THE SUSTAINABLE DEVELOPMENT OF THE MEKONG RIVER BASIN

The Governments of

The Kingdom of Cambodia, The Lao People's Democratic Republic, The Kingdom of Thailand, and The Socialist Republic of Viet Nam, being equally desirous of continuing to cooperate in a constructive and mutually beneficial manner for sustainable development, utilization, conservation and management of the Mekong River Basin water and related resources, have resolved to conclude this Agreement setting forth the framework for cooperation acceptable to all parties hereto to accomplish these ends, and for that purpose have appointed as their respective plenipotentiaries:

The Kingdom of Cambodia
HE mr. Ing Kieth
Deputy Prime Minister and Minister of Public Works and Transport,

The Lao People's Democratic Republic
HE Mr. Somsavat Lengsavad
Minister of Foreign Affairs

The Kingdom of Thailand
HE Dr. Krasae Chanawongse
Minister of Foreign Affairs

The Socialist Republic of Viet Nam
HE Mr. Nguyen Manh Cam
Minister of Foreign Affairs

Who, having communicated to each other their respective full powers and having found them in good and due form, have agreed to the following:

CHAPTER I
PREAMBLE

RECALLING the establishment of the Committee for the Coordination of Investigations of the Lower Mekong Basin on 17 September 1957 by the Governments of these countries by Statute endorsed by the United Nations,

NOTING the unique spirit of cooperation and mutual assistance that inspired the work of the Committee for the Coordination of Investigations of the Lower Mekong Basin and the many accomplishments that have been achieved through its efforts,

ACKNOWLEDGING the great political, economic and social changes that have taken place in these countries of the region during this period of time, which necessitate these efforts to re-assess, re-define and establish the future framework for cooperation,

RECOGNIZING that the Mekong River Basin and the related natural resources and environment are natural assets of immense value to all the riparian countries for the economic and social well-being and living standards of their peoples,

REAFFIRMING the determination to continue to cooperate and promote in a constructive and mutually beneficial manner in the sustainable development, utilization, conservation and management of the Mekong River Basin water and related resources for navigational and non-navigational purposes, for social and economic development and the well-being of all riparian States, consistent with the needs to protect, preserve, enhance and manage the environmental and aquatic conditions and maintenance of the ecological balance exceptional to this river basin,

AFFIRMING to promote or assist in the promotion of interdependent sub-regional growth and cooperation among the community of Mekong nations, taking into account the regional benefits that could be derived and/or detriments that could be avoided or mitigated from activities within the Mekong River Basin undertaken by this framework of cooperation,

REALIZING the necessity to provide an adequate, efficient and functional joint organizational structure to implement this Agreement and the projects, programs and activities taken thereunder in cooperation and coordination with each member and the international community, and to address and resolve issues and problems that may arise from the use and development of the Mekong River Basin water and related resources in an amicable, timely and good neighbourly manner,

PROCLAIMING further the following specific objectives, principles, institutional framework and ancillary provisions in conformity with the objectives and principles of the Charter of the United Nations and international law:

CHAPTER II
DEFINITIONS OF TERMS

For the purposes of this Agreement, it shall be understood that the following meanings to the underlined terms shall apply except where otherwise inconsistent with the context:

Agreement under Article 5: A decision of the Joint Committee resulting from prior consultation and evaluation on any proposed use for inter-basin diversions during the wet season from the mainstream as well as for intra-basin use or inter-basin diversions of these waters during the dry season. The objective of this agreement is to achieve an optimum use and prevention of waste of the waters through a dynamic and practical consensus in conformity with the Rules for water Utilization and Inter-Basin diversions as set forth in Article 26.

Acceptable minimum monthly natural flow: The acceptable minimum monthly natural flow during each month of the dry season.

Acceptable natural reverse flow: The wet season flow level in the Mekong River at Kratie that allows the reverse flow of the Tonle Sap to an agreed upon optimum level of the Great Lake.

Basin Development Plan: The general planning tool and process that the Joint Committee would use as a blueprint to identify, categorize, and prioritize the projects and programs to seek assistance for and to implement the plan at the basin level.

Environment : The conditions of water and land resources, air, flora, and fauna that exists in a particular region.

Notification: Timely providing information by a riparian to the Joint Committee on its proposed use of water according to the format, content and procedures set forth in the Rules for Water Utilization and Inter-Basin Diversions under Article 26.

Prior consultation: Timely notification plus additional data and information to the Joint Committee as provided in the Rules for Water Utilization and Inter-Basin Diversion under Article 26, that would allow the other member riparians to discuss and evaluate the impact of the proposed use upon their uses and of water and any other affects, which is the basis for arriving at an agreement.

Prior consultation: is neither a right to veto a use nor unilateral right to use water by any riparian without taking into account other riparians' rights.

Proposed use: Any proposal for a definite use of the waters of the Mekong River system by any riparian, excluding domestic and minor uses of water not having a significant impact on mainstream flows.

CHAPTER III
OBJECTIVES AND PRINCIPLES OF COOPERATION

The Parties agree:

Article 1
Areas of Cooperation

To cooperate in all fields of sustainabledevelopment, utilization, management and conservation of the water and related resources of the Mekong River Basin, including, but not limited to irrigation, hydro-power, navigation, flood control, fisheries, timber floating, recreation and tourism, in a manner to optimize the multiple-use and mutual benefits of all riparians and to minimize the harmful effects that might result from natural occurrences and man-made activities.

Article 2
Projects, Programs and Planning

To promote, support, cooperate and coordinate in the development of the full potential of sustainable benefits to all riparian States and the prevention of wasteful use of Mekong River Basin waters, with emphasis and preference on joint and/or basin-wide development projects and basin programs through the formulation of a basin development plan, that would be used to identify, categorize and prioritize the projects and programs to seek assistance for and to implement at the basin level.

Article 3
Protection of the environment and ecological balance

To protect the environment, natural resources, aquatic life and conditions, and ecological balance of the Mekong River Basin from pollution or other harmful effects resulting from any development plans and uses of water and related resources in the Basin.

Article 4
Sovereign Equality and Territorial Integrity

To cooperate on the basis of sovereign equality and territorial integrity in the utilization and protection of the water resources of the Mekong River Basin.

Article 5
Reasonable and Equitable Utilization

To utilize the waters of the Mekong River system in a reasonable and equitable manner in their respective territories, pursuant to all relevant factors and circumstances, the Rules for Water Utilization and Interbasin Diversion provided for under Article 26 and the provisions of A and B below:

A. On tributaries of the Mekong River, including Tonle Sap, intra-basin uses and inter-basin diversions shall be subject to notification to the Joint Committee.

B. On the mainstream of the Mekong River:

1. During the wet season:

a) Intra-basin use shall be subject to notification to the Joint Committee.

b) Inter-basin diversions shall be subject to prior consultation which aims at arriving at an agreement by the Joint Committee.

2. During the dry season:

a) Intra-basin use shall be subject to prior consultation which aims at arriving at an agreement by the Joint Committee.

b) Any inter-basin diversion shall be agreed upon by the Joint Committee through a specific agreement for each project prior to any proposed diversion. However, should there be a surplus quantity of water available in excess of the proposed uses of all parties in any dry season, verified a nd unanimously confirmed as such by the Joint Committee, an inter-

basin diversion of the surplus could be made subject to prior consultation.

Article 6
Maintenance of Flows on the Mainstream

To cooperate in the maintenance of the flows on the mainstream from diversions, storage releases, or other actions of a permanent nature; except in the cases of historically severe droughts and/or floods:

A. Of not less than the acceptable minimum monthly natural flow during each month of the dry season;

B. To enable the acceptable natural reverse flow of the Tonle Sap to take place during the wet season; and

C. To prevent average daily peak flows greater than what naturally occur on the average during the flood season.

The Joint Committee shall adopt guidelines for the locations and levels of the flows, and monitor and take action necessary for their maintenance as provided in Article 26.

Article 7
Prevention and Cessation of Harmful Effects

To make every effort to avoid, minimize and mitigate harmful effects that might occur to the environment, especially the water quantity and quality, the aquatic (ecosystem) conditions, and ecological balance of the river system, from the development and use of the Mekong River Basin water resources or discharges of wastes and return flows. Where one or more States is notified with proper and valid evidence that it is causing substantial damage to one or more riparians from the use of and/or discharge to water of the Mekong River, that State or States shall cease immediately the alleged cause of harm until such cause of harm is determined in accordance with Article 8.

Article 8
State Responsibility for Damages

Where harmful effects cause substantial damage to one or more riparians from the use of and/or discharge to waters of the Mekong River by any riparian state, the party(ies) concerned shall determine all relative factors, the cause, extent of damage and responsibility for damages caused by that state in conformity with the principles of international law relating to state responsibility, and to address and resolve all issues, differences and disputes in an amicable and timely manner by peaceful means as provided in Articles 34 and 35 of this Agreement, and in conformity with the Charter of the United Nations.

Article 9
Freedom of Navigation

On the basis of equality and right, freedom of navigation shall be accorded throughout the mainstream of the Mekong River without regard to the territorial boundaries, for transportation and communication to promote regional cooperation and to satisfactorily implement projects under this Agreement. The Mekong River shall be kept free from obstructions, measures, conduct and actions that might directly or indirectly impair navigability, interfere with this right or permanently make it more difficult. Navigational uses are not assured any priority over other uses, but will be incorporated into any mainstream project. Riparians may issue regulations for the portions of the Mekong River within their territories, particularly in sanitary, customs and immigration matters, police and general security.

Article 10
Emergency Situations

Whenever a party becomes aware of any special water quantity or quality problems constituting an emergency that requires an immediate response, it shall notify and consult directly with the party(ies) concerned and the Joint Committee without delay in order to take appropriate remedial action.

CHAPTER IV
INSTITUTIONAL FRAMEWORK

A
MEKONG RIVER COMMISSION

Article 11
Status

The institutional framework for cooperation in the Mekong River Basin under this Agreement shall be called the Mekong River Commission and shall, for the purpose of the exercise of its functions, enjoy the status of an international body, including entering into agreements and obligations with the donor or international community.

Article 12
Structure of Mekong River Commission

The Commission shall consist of three permanent bodies:
- Council,
- Joint Committee, and
- Secretariat.

Article 13
Assumption of Assets, Obligations and Rights

The Commission shall assume all the assets, rights and obligations of the Committee for the Coordination of Investigations of the Lower Mekong Basin (Mekong Committee / Interim Mekong Committee) and Mekong Secretariat.

Article 14
Budget of the Mekong River Commission

The budget of the Commission shall be drawn up by the Joint Committee and approved by the Council and shall consist of contributions from member countries

on an equal basis unless otherwise decided by the Council, from the international community (donor countries), and from other sources.

B
COUNCIL

Article 15
Composition of Council

The Council shall be composed of one member from each participating riparian State at the Ministerial and Cabinet level, (no less than Vice-Minister level) who would be empowered to make policy decisions on behalf of his/her government.

Article 16
Chairmanship of Council

The Chairmanship of the Council shall be for a term of one year and rotate according to the alphabetical listing of the participating countries.

Article 17
Sessions of the Council

The Council shall convene at least one regular session every year and may convene special sessions whenever it considers it necessary or upon the request of a member State. It may invite observers to its sessions as it deems appropriate.

Article 18
Functions of Council

The functions of the Council are:

A. To make policies and decisions and provide other necessary guidance concerning the promotion, support, cooperation and coordination in joint activities and projects in a constructive and mutually beneficial manner for the sustainable development, utilization, conservation and management of the Mekong River Basin waters and related resources, and protection of the environment and aquatic conditions in the Basin as provided for under this Agreement;

B. To decide any other policy-making matters and make decisions necessary to successfully implement this Agreement, including but not limited to approval of the Rules of Procedures of the Joint Committee under Article 25, Rules of Water Utilization and Inter-Basin Diversions proposed by the Joint Committee under Article 26, and the basin development plan and major component projects/programs; to establish guidelines for financial and technical assistance of development projects and programs; and if considered necessary, to invite the donors to coordinate their support through a Donor Consultative Group; and

C. To entertain, address and resolve issues, differences and disputes referred to it by any Council member, the Joint Committee, or any member State on matters arising under this Agreement.

Article 19
Rules of Procedures

The Council shall adopt its own Rules of Procedures, and may seek technical advisory services as it deems necessary.

Article 20
Decisions of Council

Decisions of the Council shall be by unanimous vote except as otherwise provided for in its Rules of Procedures.

C
JOINT COMMITTEE

Article 21
Composition of Joint Committee

The Joint Committee shall be composed of one member from each participating riparian State at no less that Head of Department level.

Article 22
Chairmanship of Joint Committee

The Chairmanship of the Joint Committee will rotate according to the reverse alphabetical listing of the member countries and the Chairperson shall serve a term of one year.

Article 23
Sessions of Joint Committee

The Joint Committee shall convene at least two regular sessions every year and may convene special sessions whenever it considers it necessary or upon the request of a member State. It may invite observers to its sessions as it deems appropriate.

Article 24
Functions of Joint Committee

The functions of the Joint Committe are:

A. To implement the policies and decisions of the Council and such other tasks as may be assigned by the Council.

B. To formulate a basin development plan, which would be periodically reviewed and revised as necessary; to submit to the Council for approval the basin development plan and joint development projects/programs to be implemented in connection with it; and to confer with donors, directly or through their consultative group, to obtain the financial and technical support necessary for project/program implementation.

C. To regularly obtain, update and exchange information and data necessary to implement this Agreement.

D. To conduct appropriate studies and assessments forecological balance of the Mekong River Basin.

E. To assign tasks and supervise the activities of the Secretariat as is required to implement this Agreement and the policies, decisions projects and programs adopted thereunder, including the maintenance of databases and information necessary for the Council and Joint Committee to perform their functions, and approval of the annual work program prepared by the Secretariat.

F. To address and make every effort to resolve issues and differences that may arise between regular sessions of the Council, referred to it by any Joint Committee member or member state on matters arising under this Agreement, and when necessary to refer the matter to the Council.

G. To review and approve studies and training for the personnel of the riparian member countries involved in Mekong River Basin activities as appropriate and necessary to strengthen the capability to implement this Agreement.

H. To make recommendations to the Council for approval on the organizational structure, modifications and restructuring of the Secretariat.

Article 25
Rules of Procedures

The Joint Committee shall propose its own Rules of Procedures to be approved by the Council. It may form ad hoc and/or permanent sub-committees or working groups as considered necessary, and may seek technical advisory services except as may be provided for in the Council's Rules of Procedures or decisions.

Article 26
Rules for Water Utilization and Inter-Basin Diversions

The Joint Committee shall prepare and propose for approval of the Council, inter alia, Rules for Water Utilization and Inter-Basin Diversions pursuant to Articles 5 and 6, including but not limited to: 1) establishing the time frame for the wet and dry seasons; 2) establishing the location of hydrological stations, and determining and maintaining the flow level requirements of each station; 3) setting out criteria for determining surplus quantities of water during the dry season on the mainstream; 4) improving upon the mechanism to monitor intra-basin use; and 5) setting up a mechanism to monitor inter-basin diversions from the mainstream.

Article 27
Decisions of the Joint Committee

Decisions of the Joint Committee shall be by unanimous vote except as otherwise provided for in its Rules of Procedures.

D
SECRETARIAT

Article 28
Purpose of Secretariat

The Secretariat shall render technical and administrative services to the Council and Joint Committee, and be under the supervision of the Joint Committee.

Article 29
Location of Secretariat

The location and structure of the permanent office of the Secretariat shall be decided by the Council, and if necessary, a headquarters agreement shall be negotiated and entered into with the host government.

Article 30
Functions of the Secretariat

The functions and duties of the Secretariat will be to:

A. Carry out the decisions and tasks assigned by the Council and Joint Committee under the direction of and directly responsible to the Joint Committee;

B. Provide technical services and financial administration and advise as requested by the Council and Joint Committee;

C. Formulate the annual work program, and prepare all other plans, project and program documents, studies and assessments as may be required;

D. Assist the Joint Committee in the implementation and management of projects and programs as requested;

E. Maintain databases of information as directed;

F. Make preparations for sessions of the Council and Joint Committee; and

G. Carry out all other assignments as may be requested.

Article 31
Chief Executive Officer

The Secretariat shall be under the direction of a Chief Executive Officer (CEO), who shall be appointed by the Council from a short-list of qualified candidates selected by the Joint Committee. The Terms of Reference of the CEO shall be prepared by the Joint Committee and approved by the Council.

Article 32
Assistant Chief Executive Officer

There will be one Assistant to the CEO, nominated by the CEO and approved by the Chairman of the Joint Committee. Such Assistant will be of the same nationality as the Chairman of the Joint Committee and shall serve for a co-terminus one-year term.

Article 33
Riparian Staff

Riparian technical staff of the Secretariat are to be recruited on a basis of technical competence, and the number of posts shall be assigned on an equal basis among the members. Riparian technical staff shall be assigned to the Secretariat for no more than two three-year terms, except as otherwise decided by the Joint Committee.

CHAPTER V
ADDRESSING DIFFERENCES AND DISPUTES

Article 34
Resolution by Mekong River Commission

Whenever any difference or dispute may arise between two or more parties to this Agreement regarding any matters covered by this Agreement and/or actions taken by the implementing organization through its various bodies, particularly as to the interpretations of the Agreement and the legal rights of the parties, the Commission shall first make every effort to resolve the issue as provided in Articles 18.C and 24.F.

Article 35
Resolution by Governments

In the event the Commission is unable to resolve the difference or dispute within a timely manner, the issue shall be referred to the Governments to take cognizance of the matter for resolution by negotiation through diplomatic channels within a timely manner, and may communicate their decision to the Council for further proceedings as may be necessary to carry out such decision. Should the Governments find it necessary or beneficial to facilitate the resolution of the matter, they may, by mutual agreement, request the assistance of mediation through an entity or party mutually agreed upon, and thereafter to proceed according to the principles of international law.

CHAPTER VI
FINAL PROVISIONS

Article 36
Entry into force and prior agreements

The Agreement shall:

A. Enter into force among all parties, with no retroactive effect upon activities and projects previously existing, on the date of signature by the appointed plenipotentiaries.

B. Replace the Statute of the Committee for Coordination of Investigations of the Lower Mekong Basin of 1957 as amended, the Joint Declaration of Principles for Utilization of the Waters of the Lower Mekong Basin of 1975, the Declaration Concerning the Interim Committee for Coordination of Investigations of the Lower Mekong Basin of 1978, and all Rules of Procedures adopted under such agreements. This Agreement shall not replace or take precedence over any other treaties, acts or agreements entered into by and among any of the parties hereto, except that where a conflict in terms, areas of jurisdiction of subject matter or operation of any entities created under existing agreements occurs with any provisions of this Agreement, the issues shall be submitted to the respective governments to address and resolve.

Article 37
Amendments, Modification, Supersession and Termination

This Agreement may be amended, modified, superseded or terminated by the mutual agreement of all parties hereto at the time of such action.

Article 38
Scope of Agreement

This Agreement shall consist of the Preamble and all provisions thereafter and amendments thereto, the Annexes, and all other agreements entered into by the Parties under this Agreement. Parties may enter into bi- or multi-lateral special agreements or arrangements for implementation and management of any programs and projects to be undertaken within the framework of this Agreement, which agreements shall not be in conflict with this Agreement and shall not confer any rights or obligations upon the parties not signatories thereto, except as otherwise conferred under this Agreement.

Article 39
Additional Parties to Agreement

Any other riparian State, accepting the rights and obligations under this Agreement, may become a party with the consent of the parties.

Article 40
Suspension and Withdrawal

Any party to this Agreement may withdraw or suspend their participation under present Agreement by giving written notice to the Chairman of the Council of the Mekong River Commission, who shall acknowledge receipt thereof and immediately communicate it to the Council representatives of all remaining parties. Such notice of withdrawal or suspension shall take effect one year after the date of acknowledgement of receipt unless such notice is withdrawn beforehand or the parties mutually agree otherwise. Unless mutually agreed upon to the contrary by all remaining parties to this Agreement, such notice shall not be prejudicial to nor relieve the noticing party of any commitments entered into concerning programs, projects, studies or other recognized rights and interests of any riparians, or under international law.

Article 41
United Nations and International Community Involvement

The member countries to this Agreement acknowledge the important contribution in the assistance and guidance of the United nations, donors and the international community and wish to continue the relationship under this Agreement.

Article 42
Registration of Agreement

This Agreement shall be registered and deposited, in English and French, with the Secretary General of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective governments, have signed this Agreement.

DONE on 5 April 1995 at Chiang Rai, Thailand, in English and French, both texts being equally authentic. In the case of any inconsistency, the text in the English language, in which language the Agreement was drawn up, shall prevail.

PROTOCOL TO THE AGREEMENT ON THE COOPERATION FOR THE SUSTAINABLE DEVELOPMENT OF THE MEKONG RIVER BASIN FOR THE ESTABLISHMENT AND COMMENCEMENT OF THE MEKONG RIVER COMMISSION

The Governments of the Kingdom of Cambodia, Lao People's Democratic Republic, Kingdom of Thailand, and Socialist Republic of Viet Nam, have signed on this day the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin.

Said Agreement provides for in Chapter IV the establishment of the Mekong River Commission as the institutional framework through which the Agreement will be implemented.

By this Protocol, the signatory parties to the Agreement do hereby declare the establishment and commencement of the Mekong River Commission, consisting of three permanent bodies, the Council, Joint Committee and Secretariat, effective on this date with the full authority and responsibility set forth under the Agreement.

In witness whereof, the undersigned, duly authorized by their respective governments have signed this Protocol. Done on 5 April 1995 at Chiang Rai, Thailand.

For the Kingdom of Cambodia:
ING KIETH
Deputy Prime Minister and Minister of Public Works and Transport

For the Lao People's Democratic Republic
SOMSAVAT LENGSAVAD
Minister of Foreign Affairs

For the Kingdom of Thailand:
DR. KRASAE CHANAWONGSE
Minister of Foreign Affairs

For the Socialist Republic of Viet Nam:
NGUYEN MANH CAM
Minister of Foreign Affairs

59. INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA TURTLES

PREAMBLE

The Parties to this Convention:

Recognizing the rights and duties of States established in international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the conservation and management of living marine resources;

Inspired by the principles contained in the 1992 Rio Declaration on Environment and Development;

Considering the principles and recommendations set forth in the Code of Conduct for Responsible Fishing adopted by the Conference of the Food and Agriculture Organization (FAO) of the United Nations in its 28th Session (1995);

Recalling that Agenda 21, adopted in 1992 by the United Nations Conference on Environment and Development, recognizes the need to protect and restore endangered marine species and to conserve their habitats;

Understanding that, in accordance with the best available scientific evidence, species of sea turtles in the Americas are threatened or endangered, and that some of these species may face an imminent risk of extinction;

Acknowledging the importance of having the States in the Americas adopt an agreement to address this situation through an instrument that also facilitates the participation of States from other regions interested in the worldwide protection and conservation of sea turtles, taking into account the widely migratory nature of these species;

Recognizing that sea turtles are subject to capture, injury or mortality as a direct or indirect result of human-related activities;

Considering that coastal zone management measures are indispensable for protecting populations of sea turtles and their habitats;

Recognizing the individual environmental, socio-economic and cultural conditions in the States in the Americas;

Recognizing that sea turtles migrate widely throughout marine areas and that their protection and conservation require cooperation and coordination among States within the range of such species;

Recognizing also the programs and activities that certain States are currently carrying out for the protection and conservation of sea turtles and their habitats;

Desiring to establish, through this Convention, appropriate measures for the protection and conservation of sea turtles throughout their range in the Americas, as well as their habitats;

Have agreed as follows:

Article I
Definitions

For the purposes of this Convention:

1. "Sea turtle" means any of the species listed in Annex I.

2. "Sea turtle habitats" means all those aquatic and terrestrial environments which sea turtles use at any stage of their life cycles.

3. "Parties" means States which have consented to be bound by this Convention and for which this convention is in force.

4. "States in the Americas" means the States of North, Central and South America and the Caribbean Sea, as well as other States that have continental or insular territories in this region.

Article II
Objective

The objective of this Convention is to promote the protection, conservation and recovery of sea turtle populations and of the habitats on which they depend, based on the best available scientific evidence, taking into account the environmental, socioeconomic and cultural characteristics of the Parties.

Article III
Area of Application of the Convention

The area of application of this Convention (the Convention Area) comprises the land territory in the Americas of each of the Parties, as well as the maritime areas of the Atlantic Ocean, the Caribbean Sea and the Pacific Ocean, with respect to which each of the Parties exercises sovereignty, sovereign rights or jurisdiction over living marine resources in accordance with international law, as reflected in the United Nations Convention on the Law of the Sea.

Article IV
Measures

1. Each Party shall take appropriate and necessary measures, in accordance with international law and on the basis of the best available scientific evidence, for the protection, conservation and

recovery of sea turtle populations and their habitats:

(a) In its land territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction included within the Convention Area; and

(b) Notwithstanding Article III, with respect to vessels on the high seas that are authorized to fly its flag.

2. Such measures shall include:

(a) The prohibition of the intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products;

(b) Compliance with the obligations established under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to sea turtles, their eggs, parts or products;

(c) To the extent practicable, the restriction of human activities that could seriously affect sea turtles, especially during the periods of reproduction, nesting and migration;

(d) The protection, conservation and, if necessary, the restoration of sea turtle habitats and nesting areas, as well as the establishment of necessary restrictions on the use of such zones, including the designation of protected areas, as provided in Annex II;

(e) The promotion of scientific research relating to sea turtles and their habitats, as well as to other relevant matters that will provide reliable information useful for the adoption of the measures referred to in this Article;

(f) The promotion of efforts to enhance sea turtle populations, including research into the experimental reproduction, raising and reintroduction of sea turtles into their habitats in order to determine the feasibility of these practices to increase populations, without putting sea turtles at risk;

(g) The promotion of environmental education and dissemination of information in an effort to encourage the participation of government institutions, nongovernmental organizations and the general public of each State, especially those communities that are involved in the protection, conservation and recovery of sea turtle populations and their habitats;

(h) The reduction, to the greatest extent practicable, of the incidental capture, retention, harm or mortality of sea turtles in the course of fishing activities, through the appropriate regulation of such activities, as well as the development, improvement and use of appropriate gear, devices or techniques, including the use of turtle excluder devices (TEDs) pursuant to the provisions of Annex III, and the corresponding training, in keeping with the principle of the sustainable use of fisheries resources; and

(i) Any other measure, in accordance with international law, which the Parties deem appropriate to achieve the objective of this Convention.

3. With respect to such measures:

(a) Each Party may allow exceptions to Paragraph 2(a) to satisfy economic subsistence needs of traditional communities, taking into account the recommendations of the Consultative Committee established pursuant to Article VII, provided that such exceptions do not undermine efforts to achieve the objective of this Convention. In making its recommendations, the Consultative Committee shall consider, inter alia, the status of the sea turtle populations in question, the views of any Party regarding such populations, impacts on such populations on a regional level, and methods used to take the eggs or turtles to cover such needs;

(b) A Party allowing such an exception shall:

(i) establish a management program that includes limits on levels of intentional taking;

(ii) include in its Annual Report, referred to in Article XI, information concerning its management program;

(c) Parties may establish, by mutual agreement, bilateral, subregional or regional management plans.

(d) The Parties may, by consensus, approve exceptions to the measures set forth in paragraph 2(c)-(i) to account of circumstances warranting special consideration, provided that such exceptions do not undermine the objective of this Convention.

4. When an emergency situation is identified that undermines efforts to achieve the objective of this Convention and that requires collective action, the Parties shall consider the adoption of appropriate and adequate measures to address the situation. These measures shall be of a temporary nature and shall be based on the best available scientific evidence.

Article V
Meetings of the Parties

1. For the first three years following the entry into force of this Convention, the Parties shall hold an ordinary meeting at least once per year to consider matters pertaining to the implementation of the provisions of this Convention. Following that, the Parties shall hold ordinary meetings at least once every two years.

2. The Parties may also hold extraordinary meetings when deemed necessary. These meetings shall be convened at the request of any Party, provided that such request is supported by a majority of the Parties.

3. At such meetings, the Parties shall, among other things:

(a) Evaluate compliance with the provisions of this Convention;

(b) Examine the reports and consider the recommendations of the Consultative Committee and the Scientific Committee, established pursuant to Articles VII and VIII, regarding the implementation of this Convention;

(c) Adopt such additional conservation and management measures as deemed appropriate to achieve the objective of this Convention. If the Parties consider it necessary, such measures may be included in an Annex to this Convention;

(d) Consider, and as necessary adopt, amendments to this Convention, in accordance with Article XXIV;

(e) Review reports of the Secretariat, if established, relating to its budget and activities.

4. At their first meeting, the Parties shall adopt rules of procedure for meetings of the Parties as well as for meetings of the Consultative Committee and the Scientific Committee, and shall consider other matters relating to those committees.

5. Decisions reached at meetings of the Parties shall be adopted by consensus.

6. The Parties may invite other interested States, relevant international organizations, as well as the private sector, scientific institutions and nongovernmental organizations with recognized expertise in matters pertaining to this Convention to attend their meetings as observers and to participate in activities under this Convention.

Article VI
Secretariat

1. At their first meeting, the Parties shall consider the establishment of a Secretariat with the following functions:

(a) Providing assistance in convening and organizing the meetings specified in Article V;

(b) Receiving from the Parties the annual reports referred to in Article XI and placing them at the disposal of the other Parties and of the Consultative Committee and the Scientific Committee;

(c) Publishing and disseminating the recommendations and decisions adopted at the meetings of the Parties in accordance with rules of procedures adopted by the Parties;

(d) Disseminating and promoting the exchange of information and educational materials regarding efforts undertaken by the Parties to increase public awareness of the need to protect and conserve sea turtles and their habitats, while maintaining the economic profitability of diverse artisanal, commercial, and subsistence fishing operations, as well as the sustainable use of fisheries resources. This information shall concern, inter alia:
   (i) environmental education and local community involvement;
   (ii) the results of research related to the protection and conservation of sea turtles and their habitats and the socioeconomic and environmental effects of the measures adopted pursuant to this Convention;

(e) Seeking economic and technical resources to carry out research and to implement the measures adopted within the framework of this Convention;

(f) Performing such other functions as the Parties may assign.

2. When deciding in this regard, the Parties shall consider the possibility of appointing the Secretariat from among competent international organizations that are willing and able to perform the functions provided for in this Article. The Parties shall determine the means of financing necessary to carry out the functions of the Secretariat.

Article VII
Consultative Committee

1. At their first meeting, the Parties shall establish a Consultative Committee of Experts, hereinafter referred to as "the Consultative Committee", which shall be constituted as follows:

(a) Each Party may appoint one representative to the Consultative Committee, who may be accompanied at each meeting by advisors;

(b) The Parties shall also appoint, by consensus, three representatives with recognized expertise in matters pertaining to this Convention, from each of the following groups:
   (i) the scientific community;
   (ii) the private sector; and
   (iii) nongovernmental organizations.

2. The functions of the Consultative Committee shall be to:

(a) Review and analyze the reports referred to in Article XI, and any other information relating to the protection and conservation of populations of sea turtles and their habitats;

(b) Solicit from any Party additional relevant information relating to the implementation of the measures set forth in this Convention or adopted pursuant thereto;

(c) Examine reports concerning the environmental, socio-economic and cultural impact on affected communities resulting from the measures set forth in this Convention or adopted pursuant thereto;

(d) Evaluate the efficiency of the different measures proposed to reduce the capture and incidental mortality of sea turtles, as well as the efficiency of different kinds of TEDs;

(e) Present a report to the Parties on its work, including, as appropriate, recommendations on the adoption of additional conservation and management measures to promote the objective of this Convention;

(f) Consider reports of the Scientific Committee;

(g) Perform such other functions as the Parties may assign.

3. The Consultative Committee shall meet at least once a year for the first three years after the entry into force of the Convention, and after that in accordance with decisions made by the Parties.

4. The Parties may establish expert groups to advise the Consultative Committee.

Article VIII
Scientific Committee

1. At their first meeting, the Parties shall establish a Scientific Committee which shall be comprised of representatives designated by the Parties and which shall meet, preferably, prior to the meetings of the Consultative Committee.

2. The functions of the Scientific Committee shall be to:

(a) Examine and, as appropriate, conduct research on sea turtles covered by this Convention, including research on their biology and population dynamics;

(b) Evaluate the environmental impact on sea turtles and their habitats of activities such as fishing operations and the exploitation of marine resources, coastal development, dredging, pollution, clogging of estuaries and reef deterioration, among other things, as well as the potential impact of activities undertaken as a result of exceptions to the measures allowed in accordance with this Convention;

(c) Analyze relevant research conducted by the Parties;

(d) Formulate recommendations for the protection and conservation of sea turtles and their habitats;

(e) Make recommendations on scientific and technical matters at the request of any Party regarding specific matters related to this Convention;

(f) Perform such other scientific functions as the Parties may assign.

Article IX
Monitoring Programs

1. During the year following the entry into force of this Convention, each Party shallv establish, within its territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction, a program to ensure monitoring of the application of the measures to protect and conserve sea turtles and their habitats set forth in this Convention or adopted pursuant thereto.

2. The program referred to in the preceding paragraph shall include, where appropriate, mechanisms and arrangements for the participation by observers designated by each Party or by agreement among them in monitoring activities.

3. In implementing the program, each Party may act with the support or cooperation of other interested States and relevant international organizations, as well as non-governmental organizations.

Article X
Compliance

Each Party shall ensure, within its territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction, effective compliance with measures to protect and conserve sea turtles and their habitats set forth in this Convention or adopted pursuant thereto.

Article XI
Annual Reports

1. Each Party shall prepare an annual report, in accordance with Annex IV, on the programs it has adopted to protect and conserve sea turtles and their habitats, as well as any program it may have adopted relating to the utilization of these species in accordance with Article IV(3).

2. Each Party shall provide, either directly or through the Secretariat, if established, its annual report to the other Parties and to the Consultative and Scientific Committees at least 30days prior to the next ordinary meeting of the Parties and shall also make such annual reports available to other States or interested entities that so request.

Article XII
International Cooperation

1. The Parties shall promote bilateral and multilateral cooperative activities to further the objective of

this Convention and, when they deem it appropriate, shall seek the support of relevant international organizations.

2. Such activities may include the training of advisors and educators; the exchange and training of technicians, sea turtle managers and researchers; the exchange of scientific information and educational materials; the development of joint research programs, studies, seminars and workshops; and other activities on which the Parties may agree.

3. The Parties shall cooperate to develop and to facilitate access to information and training regarding the use and transfer of environmentally sustainable technologies, consistent with the objective of this Convention. They shall also develop endogenous scientific and technological capabilities.

4. The Parties shall promote international cooperation in the development and improvement of fishing gear and techniques, taking into account the specific conditions of each region, in order to maintain the productivity of commercial fisheries and to ensure the protection, conservation and recovery of sea turtle populations.

5. The cooperative activities shall include rendering assistance, including technical assistance, to Parties that are developing States, in order to assist them in complying with their obligations under this Convention.

Article XIII
Financial Resources

1. At their first meeting, the Parties shall assess the need for and possibilities of obtaining financial resources, including the establishment of a special fund for purposes such as the following:

(a) Meeting the expenses that could be required for the potential establishment of the Secretariat, pursuant to Article VI;

(b) Assisting the Parties that are developing States in fulfilling their obligations under this Convention, including providing access to the technology deemed most appropriate.

Article XIV
Coordination

The Parties shall seek to coordinate their activities under this Convention with relevant international organizations, whether global, regional or subregional.

Article XV
Trade Measures

1. In implementing this Convention, the Parties shall act in accordance with the provisions of the Agreement establishing the World Trade Organization (WTO), as adopted at Marrakesh in 1994, including its annexes.

2. In particular, and with respect to the subject matter of this Convention, the Parties shall act in accordance with the provisions of the Agreement on Technical Barriers to Trade contained in Annex 1 of the WTO Agreement, as well as Article XI of the General Agreement on Tariffs and Trade of 1994.

3. The Parties shall endeavor to facilitate trade in fish and fishery products associated with this Convention, in accordance with their international obligations.

Article XVI
Settlement of Disputes

1. Any Party may consult with one or more other Parties about any dispute related to the interpretation or application of the provisions of this Convention to reach a solution satisfactory to all parties to the dispute as quickly as possible.

2. If a dispute is not settled through such consultation within a reasonable period, the Parties in question shall consult among themselves as soon as possible in order to settle the dispute through any peaceful means they may decide upon in accordance with international law, including, where appropriate, those provided for in the United Nations Convention on the Law of the Sea.

Article XVII
Rights of the Parties

1. No provision of this Convention may be interpreted in such a way as to prejudice or undermine the sovereignty, sovereign rights or jurisdiction exercised by any Party in accordance with international law.

2. No provision of this Convention, nor measures or activities performed in its implementation, may be interpreted in such a way as to allow a Party to make a claim, or to exercise sovereignty, sovereign rights or jurisdiction in contravention of international law.

Article XVIII
Implementation at the National Level

Each Party shall adopt measures in its respective national laws for implementation of the provisions of this Convention and to ensure effective compliance by means of policies, plans and programs for the protection and conservation of sea turtles and their habitats.

Article XIX
Non-Parties

1. The Parties shall encourage:

(a) any eligible State to become party to this Convention;

(b) any other State to become party to a complementary protocol as envisioned in Article XX.

2. The Parties shall also encourage all States not Party to this Convention to adopt laws and regulations consistent with the provisions of this Convention.

Article XX
Complementary Protocols

In order to promote the protection and conservation of sea turtles outside the Convention.

Area where these species also exist, the Parties should negotiate with States that are not eligible to become party to this Convention a complementary protocol or protocols, consistent with the objective of this Convention, to which all interested States may become party.

Article XXI
Signature and Ratification

1. This Convention shall be open for signature at Caracas, Venezuela, by States in the Americas from December 1, 1996, until December 31, 1998.

2. This Convention is subject to ratification by the Signatories in accordance with their domestic laws and procedures. Instruments of ratification shall be deposited with the Government of Venezuela, which shall be the Depositary.

Article XXII
Entry into Force and Accession

1. This Convention shall enter into force ninety days after the date of deposit of the eighth instrument of ratification.

2. After the Convention has entered into force, it shall be open for accession by States in the Americas. This Convention shall enter into force for any such State on the date of its deposit of an instrument of accession with the Depositary.

Article XXIII
Reservations

Signature and ratification of, or accession to, this Convention may not be made subject to any reservation.

Article XXIV
Amendments

1. Any Party may propose an amendment to this Convention by providing the Depositary the text of a proposed amendment at least 60 days in advance of the next meeting of the Parties. The Depositary shall promptly circulate any amendment proposed to all the Parties.

2. Amendments to this Convention, adopted in accordance with the provisions of Article V(5), shall enter into force when the Depositary has received instruments of ratification from all Parties.

Article XXV
Withdrawal

Any Party may withdraw from this Convention at any time after 12 months from the date on which this Convention entered into force with respect to that Party by giving written notice of withdrawal to the Depositary. The Depositary shall inform the other Parties of the withdrawal within 30 days of receipt of such notice. The withdrawal shall become effective six months after receipt of such notice.

Article XXVI
Status Of Annexes

1. The Annexes to this Convention are an integral part hereof. All references to this Convention shall be understood as including its Annexes.

2. Unless the Parties decide otherwise, the Annexes to this Convention may be amended, by consensus, at any meeting of the Parties. Unless otherwise agreed, amendments to an Annex shall enter into force for all Parties one year after adoption.

Article XXVII
Authentic Texts and Certified Copies

1. The English, French, Portuguese, and Spanish texts of this Convention are equally authentic.

2. The original texts of this Convention shall be deposited with the Government of Venezuela, which shall send certified copies thereof to the Signatory States and to the Parties hereto, and to the Secretary General of the United Nations for registration and publication, pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, having been duly authorized by their respective governments, have signed this Convention.

DONE AT Caracas on this first day of December, 1996.

ANNEX I
SEA TURTLES*

1. *Caretta caretta* (Linnaeus, 1758)
Tortuga caguama, cabezuda, cahuama
Loggerhead turtle
Tortue caouanne
Cabeçuda, mestiça

2. *Chelonia mydas* (Linnaeus, 1758), including populations of this species in the Eastern or American Pacific alternatively classified by specialists as *Chelonia mydas agassizii* (Carr, 1952), or as *Chelonia agassizii* (Bocourt, 1868).
Tortuga blanca, aruana, verde
Green sea turtle

Tortue verte
Tartaruga verde
Soepschildpad, krapé
Common alternate names in the Eastern Pacific:
Tortuga prieta
East Pacific green turtle, black turtle
Tortue verte du Pacifique est

3. *Dermochelys coriacea* (Vandelli, 1761)
Tortuga laúd, gigante, de cuero
Leatherback turtle
Tortue luth
Tartaruga gigante, de couro Lederschildpad, aitkanti

4. *Eretmochelys imbricata* (Linnaeus, 1766)
Tortuga de carey
Hawksbill sea turtle
Tortue caret
Tartaruga de pente
Karét

5. *Lepidochelys kempii* (Garman, 1880)
Tortuga lora
Kemp's ridley turtle
Tortue de Kemp

6. *Lepidochelys olivacea* (Eschscholtz, 1829)
Tortuga golfina
Olive ridley turtle
Tortue olivâtre
Tartaruga oliva
Warana

* Due to the wide variety of common names, even within the same State, this list should not be considered exhaustive.

ANNEX II
PROTECTION AND CONSERVATION OF SEA TURTLE HABITATS

Each Party shall consider and may adopt, as necessary and in accordance with its laws, regulations, policies, plans and programs, measures to protect and conserve sea turtle habitats within its territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction, such as:

1. Requiring assessments of the environmental impact of marine and coastal development activities that may affect sea turtle habitats, including: dredging of canals and estuaries; construction of sea walls, piers and marinas; extraction of raw materials; operation of aquaculture facilities; siting of industrial facilities; use of reefs; deposit of dredged materials and trash; and other related activities;

2. Managing and, when necessary, regulating the use of beaches and coastal dunes with respect to the location and design of buildings, the use of artificial lighting and the transit of vehicles in nesting areas;

3. Establishing protected areas and taking other measures to regulate the use of areas where sea turtles nest or regularly occur, including permanent or temporary closures, modification of fishing gear, and, to the greatest extent practicable, restrictions on vessel traffic.

ANNEX III
USE OF TURTLE EXCLUDER DEVICES

1. "Shrimp trawl vessel" means any vessel used to catch shrimp species with trawl nets.

2. "Turtle Excluder Device" or "TED" means a device designed to increase the selectivity of shrimp trawl nets in order to reduce the incidental capture of sea turtles in shrimp fishing operations.

3. Each Party shall require shrimp trawl vessels subject to its jurisdiction that operate within the Convention Area to use recommended TEDs that are properly installed and functional.

4. Each Party, in accordance with the best available scientific evidence, may allow exceptions to use of TEDs as required in Paragraph 3 only in the following circumstances:

a. For shrimp trawl vessels whose nets are retrieved exclusively by manual rather than mechanical means, and shrimp vessels with trawl nets for which no TEDs have been developed. A Party allowing such exception shall adopt other measures to reduce the incidental mortality of sea turtles that are equally effective and that do not undermine efforts to achieve the objective of this Convention, such as limits on tow times, closed seasons and closed fishing areas where sea turtles occur.

b. For shrimp trawl vessels:
   (i) exclusively using other trawl gear that has been demonstrated not to pose a risk of incidental mortality of sea turtles; or
   (ii) operating under conditions where there is no likelihood of interaction with sea turtles; provided that the Party allowing such exceptionprovides to the other Parties, either directly or through the Secretariat, if established, documented scientific evidence demonstrating the lack of such risk or likelihood;

c. For shrimp trawl vessels conducting scientific research under a program approved by the Party;

d. Where the presence of algae, seaweed, debris, or other special conditions, temporary or permanent, make the use of TEDs impracticable in a specific area, provided that:
   (i) a Party allowing this exception shall adopt other measures to protect sea turtles in the area in question, such as limits on tow times;
   (ii) only in extraordinary emergency situations of a temporary nature may a Party allow this exception to apply to more than a small number of the vessels subject to its jurisdiction that would otherwise be required to use TEDs pursuant to this Annex;
   (iii) a Party allowing this exception shall provide to the other Parties, either directly or through the Secretariat, if established, information concerning the special conditions and the number of shrimp trawl vessels operating in the area in question.

5. Any Party may comment upon information provided by any other Party pursuant to Paragraph 4. Where appropriate, the Parties shall seek guidance from the Consultative Committee and the Scientific Committee to resolve differences of view. If the Consultative Committee so recommends, and the Parties agree, a Party that has allowed an exception pursuant to Paragraph 4 shall reconsider the allowance or extent of such an exception.

6. The Parties may, by consensus, approve other exceptions to the use of TEDs as required in Paragraph 3, in accordance with the best available scientific evidence and based on recommendations of the Consultative Committee and the Scientific Committee, to account for circumstances warranting special consideration, provided that such exceptions do not undermine efforts to achieve the objective of this Convention.

7. For the purposes of this Convention:

a. Recommended TEDs shall be those TEDs determined by the Parties, with advice from the Consultative Committee, to reduce the incidental capture of sea turtles in shrimp trawl fishing operations to the greatest extent practicable;

b. At their first meeting, the Parties shall develop an initial list of recommended TEDs, which they may modify at subsequent meetings;

c. Until the first meeting of the Parties, each Party shall determine, in accordance with its laws and regulations, which TEDs to require for use by shrimp trawl vessels subject to its jurisdiction in order to reduce the incidental capture of sea turtles in shrimp trawl fishing operations to the greatest extent practicable, based on consultations with other Parties.

8. At the request of any other Party or of the Consultative Committee or the Scientific Committee, each Party shall provide, either directly or through the Secretariat, if established, scientific information relevant to the achievement of the objective of this Convention.

ANNEX IV
ANNUAL REPORTS

The annual reports referred to in Article XI(1) shall include the following:

a. A general description of the program to protect and conserve sea turtles and their habitats, including any laws or regulations adopted to achieve the objective of this Convention;

b. Any pertinent new laws or regulations adopted during the preceding year;

c. A summary of actions taken, and the results thereof, to implement measures for the protection and conservation of sea turtles and their habitats, such as: operation of turtle camps; improvement and development of new fishing gear to reduce incidental sea turtle capture and mortality; scientific research, including marking,migration, and repopulation studies; environmental education; programs to establish and manage protected areas; cooperative activities with other Parties; and any other activities designed to achieve the objective of this Convention;

d. A summary of the actions taken to enforce its laws and regulations, including penalties imposed for violations;

e. A detailed description of any exceptions allowed, in accordance with this Convention, during the preceding year, including monitoring and mitigation measures related to these exceptions, and, in particular, any relevant information on the number of turtles, nests, and eggs, as well as sea turtle habitats, affected by the allowance of these exceptions;

f. Any other information the Party may deem relevant.

60. CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

The Parties to this Convention,

Recalling principle l of the Stockholm Declaration on the Human Environment,

Recalling also principle 10 of the Rio Declaration on Environment and Development,

Recalling further General Assembly resolutions 37/7 of 28 October 1982 on the World Charter for Nature and 45/94 of 14 December 1990 on the need to ensure a healthy environment for the well-being of individuals,

Recalling the European Charter on Environment and Health adopted at the First European Conference on Environment and Health of the World Health Organization in Frankfurt-am-Main, Germany, on 8 December 1989,

Affirming the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development,

Recognizing that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself,

Recognizing also that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations,

Considering that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights,

Recognizing that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns,

Aiming thereby to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment,

Recognizing the desirability of transparency in all branches of government and inviting legislative bodies to implement the principles of this Convention in their proceedings,

Recognizing also that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them,

Recognizing further the importance of the respective roles that individual citizens, non-governmental organizations and the private sector can play in environmental protection,

Desiring to promote environmental education to further the understanding of the environment and sustainable development and to encourage widespread public awareness of, and participation in, decisions affecting the environment and sustainable development,

Noting, in this context, the importance of making use of the media and of electronic or other, future forms of communication,

Recognizing the importance of fully integrating environmental considerations in governmental decision-making and the consequent need for public authorities to be in possession of accurate, comprehensive and up-to-date environmental information,

Acknowledging that public authorities hold environmental information in the public interest,

Concerned that effective judicial mechanisms should be accessible to the public, including organizations, so that its legitimate interests are protected and the law is enforced, Noting the importance of adequate product information being provided to consumers to enable them to make informed environmental choices,

Recognizing the concern of the public about the deliberate release of genetically modified organisms into the environment and the need for increased transparency and greater public participation in decision-making in this field,

Convinced that the implementation of this Convention will contribute to strengthening democracy in the region of the United Nations Economic Commission for Europe (ECE),

Conscious of the role played in this respect by ECE and recalling, inter alia, the ECE Guidelines on Access to Environmental Information and Public Participation

in Environmental Decision-making endorsed in the Ministerial Declaration adopted at the Third Ministerial Conference "Environment for Europe" in Sofia, Bulgaria, on 25 October 1995,

Bearing in mind the relevant provisions in the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo, Finland, on 25 February 1991, and the Convention on the Transboundary Effects of Industrial Accidents and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, both done at Helsinki on 17 March 1992, and other regional conventions,

Conscious that the adoption of this Convention will have contributed to the further strengthening of the "Environment for Europe" process and to the results of the Fourth Ministerial Conference in Aarhus, Denmark, in June 1998,

Have agreed as follows:

Article 1
Objective

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.

Article 2
Definitions

For the purposes of this Convention,

1. "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;

2. "Public authority" means:

(a) Government at national, regional and other level;

(b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;

(c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs (a) or (b) above;

(d) The institutions of any regional economic integration organization referred to in article 17 which is a Party to this Convention. This definition does not include bodies or institutions acting in a judicial or legislative capacity;

3. "Environmental information" means any information in written, visual, aural, electronic or any other material form on:

(a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;

(c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;

4. "The public" means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

5. "The public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

Article 3
General Provisions

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

4. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.

5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.

6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.

7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Article 4
Access to Environmental Information

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

(a) Without an interest having to be stated;

(b) In the form requested unless:
  (i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or
  (ii) The information is already publicly available in another form.

2. The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

3. A request for environmental information may be refused if:

(a) The public authority to which the request is addressed does not hold the environmental information requested;

(b) The request is manifestly unreasonable or formulated in too general a manner; or

(c) The request concerns material in the course of completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest served by disclosure.

4. A request for environmental information may be refused if the disclosure would adversely affect:

(a) The confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law;

(b) International relations, national defence or public security;

(c) The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(d) The confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions which is relevant for the protection of the environment shall be disclosed;

(e) Intellectual property rights;

(f) The confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law;

(g) The interests of a third party which has supplied the information requested without that party being under or capable of being put under a legal obligation to do so, and where that party does not consent to the release of the material; or

(h) The environment to which the information relates, such as the breeding sites of rare species. The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.

5. Where a public authority does not hold the environmental information requested, this public authority shall, as promptly as possible, inform the applicant of the public authority to which it believes it is possible to apply for the information requested or transfer the request to that authority and inform the applicant accordingly.

6. Each Party shall ensure that, if information exempted from disclosure under paragraphs 3 (c) and 4 above can be separated out without prejudice to the confidentiality of the information exempted, public authorities make available the remainder of the environmental information that has been requested.

7. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall state the reasons for the refusal and give information on access to the review procedure provided for in accordance with article 9. The refusal shall be made as soon as possible and at the latest within one month, unless the complexity of the information justifies an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

8. Each Party may allow its public authorities to make a charge for supplying information, but such charge shall not exceed a reasonable amount. Public authorities intending to make such a charge for supplying information shall make available to applicants a schedule of charges which may be levied, indicating the circumstances in which they may be levied or waived and when the supply of information is conditional on the advance payment of such a charge.

Article 5
Collection and Dissemination of Environmental Information

1. Each Party shall ensure that:

(a) Public authorities possess and update environmental information which is relevant to their functions;

(b) Mandatory systems are established so that there is an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment;

(c) In the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.

2. Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible, inter alia, by:

(a) Providing sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained;

(b) Establishing and maintaining practical arrangements, such as:
  (i) Publicly accessible lists, registers or files;
  (ii) Requiring officials to support the public in seeking access to information under this Convention; and
  (iii) The identification of points of contact; and

(c) Providing access to the environmental information contained in lists, registers or files as referred to in subparagraph (b) (i) above free of charge.

3. Each Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks. Information accessible in this form should include:

(a) Reports on the state of the environment, as referred to in paragraph 4 below;

(b) Texts of legislation on or relating to the environment;

(c) As appropriate, policies, plans and programmes on or relating to the environment, and environmental agreements; and

(d) Other information, to the extent that the availability of such information in this form would facilitate the application of national law implementing this Convention, provided that such information is already available in electronic form.

4. Each Party shall, at regular intervals not exceeding three or four years, publish and disseminate a national report on the state of the environment, including information on the quality of the environment and information on pressures on the environment.

5. Each Party shall take measures within the framework of its legislation for the purpose of disseminating, inter alia:

(a) Legislation and policy documents such as documents on strategies, policies, programmes and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;

(b) International treaties, conventions and agreements on environmental issues; and

(c) Other significant international documents on environmental issues, as appropriate.

6. Each Party shall encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products, where appropriate within the framework of voluntary eco-labelling or eco-auditing schemes or by other means.

7. Each Party shall:

(a) Publish the facts and analyses of facts which it considers relevant and important in framing major environmental policy proposals;

(b) Publish, or otherwise make accessible, available explanatory material on its dealings with the public in matters falling within the scope of this Convention; and

(c) Provide in an appropriate form information on the performance of public functions or the provision of public services relating to the environment by government at all levels.

8. Each Party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices.

9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerized and publicly accessible database compiled through standardized reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.

10. Nothing in this article may prejudice the right of Parties to refuse to disclose certain environmental information in accordance with article 4, paragraphs 3 and 4.

Article 6
Public Participation in Decisions on Specific Activities

1. Each Party:

(a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;

(b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and

(c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes.

2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

(a) The proposed activity and the application on which a decision will be taken;

(b) The nature of possible decisions or the draft decision;

(c) The public authority responsible for making the decision;

(d) The envisaged procedure, including, as and when this information can be provided:
  (i) The commencement of the procedure;
  (ii) The opportunities for the public to participate;
  (iii) The time and venue of any envisaged public hearing;
  (iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
  (v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and
  (vi) An indication of what environmental information relevant to the proposed activity is available; and

(e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.

3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.

4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:

(a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;

(b) A description of the significant effects of the proposed activity on the environment;

(c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;

(d) A non-technical summary of the above;

(e) An outline of the main alternatives studied by the applicant; and

(f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

10. Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied mutatis mutandis, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Article 7
Public Participation Concerning Plans, Programmes and Policies Relating to the Environment

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

Article 8
Public Participation During the Preparation of Executive Regulations and/or Generally Applicable Legally Binding Normative Instruments

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

(a) Time-frames sufficient for effective participation should be fixed;

(b) Draft rules should be published or otherwise made publicly available; and

(c) The public should be given the opportunity to comment, directly or through representative consultative bodies. The result of the public participation shall be taken into account as far as possible.

Article 9
Access to Justice

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure

established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

(a) Having a sufficient interest or, alternatively,

(b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition,have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

5. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Article 10
Meeting of the Parties

1. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, an ordinary meeting of the Parties shall be held at least once every two years, unless otherwise decided by the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to all Parties by the Executive Secretary of the Economic Commission for Europe, the said request is supported by at least one third of the Parties.

2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention on the basis of regular reporting by the Parties, and, with this purpose in mind, shall:

(a) Review the policies for and legal and methodological approaches to access to information, public participation in decision-making and access to justice in environmental matters, with a view to further improving them;

(b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements having relevance to the purposes of this Convention and to which one or more of the Parties are a party;

(c) Seek, where appropriate, the services of relevant ECE bodies and other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;

(d) Establish any subsidiary bodies as they deem necessary;

(e) Prepare, where appropriate, protocols to this Convention;

(f) Consider and adopt proposals for amendments to this Convention in accordance with the provisions of article 14;

(g) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;

(h) At their first meeting, consider and by consensus adopt rules of procedure for their meetings and the meetings of subsidiary bodies;

(i) At their first meeting, review their experience in implementing the provisions of article 5, paragraph 9, and consider what steps are necessary to develop further the system referred to in that paragraph, taking into account international processes and developments, including the elaboration of an appropriate instrument concerning pollution release and transfer registers or inventories which could be annexed to this Convention.

3. The Meeting of the Parties may, as necessary, consider establishing financial arrangements on a consensus basis.

4. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organization entitled under article 17 to sign this Convention but which is not a Party to this Convention, and any intergovernmental organization qualified in the fields to which this Convention relates, shall be entitled to participate as observers in the meetings of the Parties.

5. Any non-governmental organization, qualified in the fields to which this Convention relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a meeting of the Parties shall be entitled to participate as an observer unless at least one third of the Parties present in the meeting raise objections.

6. For the purposes of paragraphs 4 and 5 above, the rules of procedure referred to in paragraph 2 (h) above shall provide for practical arrangements for the admittance procedure and other relevant terms.

Article 11
Right to Vote

1. Except as provided for in paragraph 2 below, each Party to this Convention shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 12
Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

(a) The convening and preparing of meetings of the Parties;

(b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Convention; and.

(c) Such other functions as may be determined by the Parties.

Article 13
Annexes

The annexes to this Convention shall constitute an integral part thereof.

Article 14
Amendments to the Convention

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting of the Parties at which it is proposed for adoption.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. Amendments to this Convention adopted in accordance with paragraph 3 above shall be communicated by the Depositary to all Parties for ratification, approval or acceptance. Amendments to this Convention other than those to an annex shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. Any Party that is unable to approve an amendment to an annex to this Convention shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.

6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in paragraph 4 above an amendment to an annex shall become effective for those Parties which have not

submitted a notification to the Depositary in accordance with the provisions of paragraph 5 above, provided that not more than one third of the Parties have submitted such a notification.

7. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 15
Review of Compliance

The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.

Article 16
Settlement of Disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 above, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in annex II.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 17
Signature

This Convention shall be open for signature at Aarhus (Denmark) on 25 June 1998, and thereafter at United Nations Headquarters in New York until 21 December 1998, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraphs 8 and 11 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 18
Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Convention.

Article 19
Ratification, Acceptance, Approval and Accession

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.

2. This Convention shall be open for accession as from 22 December 1998 by the States and regional economic integration organizations referred to in article 17.

3. Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties.

4. Any organization referred to in article 17 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. If one or more of such an organization's member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 17 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

Article 20
Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in article 17 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth

instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 21
Withdrawal

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from the Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 22
Authentic Texts

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Aarhus (Denmark), this twenty-fifth day of June, one thousand nine hundred and ninety-eight.

Annex I
LIST OF ACTIVITIES REFERRED TO IN ARTICLE 6, PARAGRAPH 1 (a)

1. Energy sector:
- Mineral oil and gas refineries;
- Installations for gasification and liquefaction;
- Thermal power stations and other combustion installations with a heat input of 50 megawatts (MW) or more;
- Coke ovens;
- Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors 1/ (except research installations for the production and conversion of fissionable and fertile materials whose maximum power does not exceed 1 kW continuous thermal load);
- Installations for the reprocessing of irradiated nuclear fuel;
- Installations designed;
- For the production or enrichment of nuclear fuel;
- For the processing of irradiated nuclear fuel or high-level radioactive waste;
- For the final disposal of irradiated nuclear fuel;
- Solely for the final disposal of radioactive waste;
- Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

2. Production and processing of metals:
- Metal ore (including sulphide ore) roasting or sintering installations;
- Installations for the production of pig-iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tons per hour;
- Installations for the processing of ferrous metals:

(i) Hot-rolling mills with a capacity exceeding 20 tons of crude steel per hour;
(ii) Smitheries with hammers the energy of which exceeds 50 kilojoules per hammer, where the calorific power used exceeds 20 MW;
(iii) Application of protective fused metal coats with an input exceeding 2 tons of crude steel per hour;

- Ferrous metal foundries with a production capacity exceeding 20 tons per day;
- Installations:

(i) For the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;
(ii) For the smelting, including the alloying, of non-ferrous metals, including recovered products (refining, foundry casting, etc.), with a melting capacity exceeding 4 tons per day for lead and cadmium or 20 tons per day for all other metals;

- Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m3.

3. Mineral industry:
- Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tons per day or lime in rotary kilns with a production capacity exceeding 50 tons per day or in other furnaces with a production capacity exceeding 50 tons per day;
- Installations for the production of asbestos and the manufacture of asbestos-based products;
- Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tons per day;
- Installations for melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tons per day;
- Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tons per day, and/or with a kiln capacity exceeding 4 m3 and with a setting density per kiln exceeding 300 kg/m3.

4. Chemical industry: Production within the meaning of the categories of activities contained in this paragraph means the production on an industrial scale by chemical processing of substances or groups of substances listed in subparagraphs (a) to (g):

(a) Chemical installations for the production of basic organic chemicals, such as:
  (i) Simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

(ii) Oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins;
(iii) Sulphurous hydrocarbons;
(iv) Nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;
(v) Phosphorus-containing hydrocarbons;
(vi) Halogenic hydrocarbons;
(vii) Organometallic compounds;
(viii) Basic plastic materials (polymers, synthetic fibres and cellulose-based fibres);
(ix) Synthetic rubbers;
(x) Dyes and pigments;
(xi) Surface-active agents and surfactants;

(b) Chemical installations for the production of basic inorganic chemicals, such as:
(i) Gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride;
(ii) Acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hdrochloric acid, sulphuric acid, oleum, sulphurous acids;
(iii) Bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
(iv) Salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate;
(v) Non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide;

(c) Chemical installations for the production of phosphorous-,nitrogen- or potassium-based fertilizers (simple or compound fertilizers);

(d) Chemical installations for the production of basic plant health products and of biocides;

(e) Installations using a chemical or biological process for the production of basic pharmaceutical products;

(f) Chemical installations for the production of explosives;

(g) Chemical installations in which chemical or biological processing is used for the production of protein feed additives, ferments and other protein substances.

5. Waste management:
- Installations for the incineration, recovery, chemical treatment or landfill of hazardous waste;
- Installations for the incineration of municipal waste with a capacity exceeding 3 tons per hour;
- Installations for the disposal of non-hazardous waste with a capacity exceeding 50 tons per day;
- Landfills receiving more than 10 tons per day or with a total capacity exceeding 25 000 tons, excluding landfills of inert waste.

6. Waste-water treatment plants with a capacity exceeding 150 000 population equivalent.

7. Industrial plants for the:
(a) Production of pulp from timber or similar fibrous materials;

(b) Production of paper and board with a production capacity exceeding 20 tons per day.

8.(a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2 100 m or more;

(b) Construction of motorways and express roads;

(c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.

9. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tons;

(b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tons.

10. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

11.(a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;

(b) In all other cases, works for the transfer of water resources between river basins where the multiannual average flow of the basin of abstraction exceeds 2 000 million cubic metres/ year and where the amount of water transferred exceeds 5% of this flow.
In both cases transfers of piped drinking water are excluded.

12. Extraction of petroleum and natural gas for commercial purposes where the amount extracted

exceeds 500 tons/day in the case of petroleum and 500 000 cubic metres/day in the case of gas.

13. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

14. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.

15. Installations for the intensive rearing of poultry or pigs with more than:
(a) 40 000 places for poultry;

(b) 2 000 places for production pigs (over 30 kg); or

(c) 750 places for sows.

16. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.

17. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

18. Installations for the storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tons or more.

19. Other activities:
- Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tons per day;
- Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day;
(a) Slaughterhouses with a carcass production capacity greater than 50 tons per day;

(b) Treatment and processing intended for the production of food products from:
  (i) Animal raw materials (other than milk) with a finished product production capacity greater than 75 tons per day;
  (ii) Vegetable raw materials with a finished product production capacity greater than 300 tons per day (average value on a quarterly basis);

(c) Treatment and processing of milk, the quantity of milk received being greater than 200 tons per day (average value on an annual basis);
- Installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tons per day;
- Installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tons per year;
- Installations for the production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitization.

20. Any activity not covered by paragraphs 1-19 above where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation.

21. The provision of article 6, paragraph 1 (a) of this Convention, does not apply to any of the above projects undertaken exclusively or mainly for research, development and testing of new methods or products for less than two years unless they would be likely to cause a significant adverse effect on environment or health.

22. Any change to or extension of activities, where such a change or extension in itself meets the criteria/thresholds set out in this annex, shall be subject to article 6, paragraph 1 (a) of this Convention. Any other change or extension of activities shall be subject to article 6, paragraph 1 (b) of this Convention.

Notes
1/ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.
2/ For the purposes of this Convention, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).
3/ For the purposes of this Convention, "express road" means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

Annex II
ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 16, paragraph 2, of this Convention, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Convention.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall

not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information;

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

13. The arbitral tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to this Convention which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

61. PROTOCOL ON POLLUTANT RELEASE AND TRANSFER REGISTERS

The Parties to this Protocol,

Recalling article 5, paragraph 9, and article 10, paragraph 2, of the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention),

Recognizing that pollutant release and transfer registers provide an important mechanism to increase corporate accountability, reduce pollution and promote sustainable development, as stated in the Lucca Declaration adopted at the first meeting of the Parties to the Aarhus Convention,

Having regard to principle 10 of the 1992 Rio Declaration on Environment and Development,

Having regard also to the principles and commitments agreed to at the 1992 United Nations Conference on Environment and Development, in particular the provisions in chapter 19 of Agenda 21,

Taking note of the Programme for the Further Implementation of Agenda 21, adopted by the General Assembly of the United Nations at its nineteenth special session, 1997, in which it called for, inter alia, enhanced national capacities and capabilities for information collection, processing and dissemination, to facilitate public access to information on global environmental issues through appropriate means,

Having regard to the Plan of Implementation of the 2002 World Summit on Sustainable Development, which encourages the development of coherent, integrated information on chemicals, such as through national pollutant release and transfer registers,

Taking into account the work of the Intergovernmental Forum on Chemical Safety, in particular the 2000 Bahia Declaration on Chemical Safety, the Priorities for Action Beyond 2000 and the Pollutant Release and Transfer Register/Emission Inventory Action Plan,

Taking into account also the activities undertaken within the framework of the Inter-Organization Programme for the Sound Management of Chemicals,

Taking into account furthermore the work of the Organisation for Economic Co-operation and Development, in particular its Council Recommendation on Implementing Pollutant Release and Transfer Registers, in which the Council calls upon member countries to establish and make publicly available national pollutant release and transfer registers,

Wishing to provide a mechanism contributing to the ability of every person of present and future generations to live in an environment adequate to his or her health and well-being, by ensuring the development of publicly accessible environmental information systems,

Wishing also to ensure that the development of such systems takes into account principles contributing to sustainable development such as the precautionary approach set forth in principle 15 of the 1992 Rio Declaration on Environment and Development,

Recognizing the link between adequate environmental information systems and the exercise of the rights contained in the Aarhus Convention,

Noting the need for cooperation with other international initiatives concerning pollutants and waste, including the 2001 Stockholm Convention on Persistent Organic Pollutants and the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Recognizing that the objectives of an integrated approach to minimizing pollution and the amount of waste resulting from the operation of industrial installations and other sources are to achieve a high level of protection for the environment as a whole, to move towards sustainable and environmentally sound development and to protect the health of present and future generations,

Convinced of the value of pollutant release and transfer registers as a cost-effective tool for encouraging improvements in environmental performance, for providing public access to information on pollutants released into and transferred in and through communities, and for use by Governments in tracking trends, demonstrating progress in pollution reduction, monitoring compliance with certain international agreements, setting priorities and evaluating progress achieved through environmental policies and programmes,

Believing that pollutant release and transfer registers can bring tangible benefits to industry through the improved management of pollutants,

Noting the opportunities for using data from pollutant release and transfer registers, combined with health, environmental, demographic, economic or other types of relevant information, for the purpose of gaining a better understanding of potential problems, identifying 'hot spots', taking preventive and mitigating measures, and setting environmental management priorities,

Recognizing the importance of protecting the privacy of identified or identifiable natural persons in the processing of information reported to pollutant release and transfer registers in accordance with applicable

international standards relating to data protection,
Recognizing also the importance of developing internationally compatible national pollutant release and transfer register systems to increase the comparability of data,

Noting that many member States of the United Nations Economic Commission for Europe, the European Community and the Parties to the North American Free Trade Agreement are acting to collect data on pollutant releases and transfers from various sources and to make these data publicly accessible, and recognizing especially in this area the long and valuable experience in certain countries,

Taking into account the different approaches in existing emission registers and the need to avoid duplication, and recognizing therefore that a certain degree of flexibility is needed,

Urging the progressive development of national pollutant release and transfer registers,

Urging also the establishment of links between national pollutant release and transfer registers and information systems on other releases of public concern,

Have agreed as follows:

Article 1
OBJECTIVE

The objective of this Protocol is to enhance public access to information through the establishment of coherent, integrated, nationwide pollutant release and transfer registers (PRTRs) in accordance with the provisions of this Protocol, which could facilitate public participation in environmental decision making as well as contribute to the prevention and reduction of pollution of the environment.

Article 2
DEFINITIONS

For the purposes of this Protocol,

1. "Party" means, unless the text indicates otherwise, a State or a regional economic integration organization referred to in article 24 which has consented to be bound by this Protocol and for which the Protocol is in force;

2. "Convention" means the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998;
3. "The public" means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

4. "Facility" means one or more installations on the same site, or on adjoining sites, that are owned or operated by the same natural or legal person;

5. "Competent authority" means the national authority or authorities, or any other competent body or bodies, designated by a Party to manage a national pollutant release and transfer register system;

6. "Pollutant" means a substance or a group of substances that may be harmful to the environment or to human health on account of its properties and of its introduction into the environment;

7. "Release" means any introduction of pollutants into the environment as a result of any human activity, whether deliberate or accidental, routine or nonroutine, including spilling, emitting, discharging, injecting, disposing or dumping, or through sewer systems without final waste-water treatment;

8. "Off-site transfer" means the movement beyond the boundaries of the facility of either pollutants or waste destined for disposal or recovery and of pollutants in waste water destined for waste-water treatment;

9. "Diffuse sources" means the many smaller or scattered sources from which pollutants may be released to land, air or water, whose combined impact on those media may be significant and for which it is impractical to collect reports from each individual source;

10. The terms "national" and "nationwide" shall, with respect to the obligations under the Protocol on Parties that are regional economic integration organizations, be construed as applying to the region in question unless otherwise indicated;

11. "Waste" means substances or objects which are:
(a) Disposed of or recovered;

(b) Intended to be disposed of or recovered; or

(c) Required by the provisions of national law to be disposed of or recovered;

12. "Hazardous waste" means waste that is defined as hazardous by the provisions of national law;

13. "Other waste" means waste that is not hazardous waste;

14. "Waste water" means used water containing substances or objects that is subject to regulation by national law.

Article 3
GENERAL PROVISIONS

1. Each Party shall take the necessary legislative, regulatory and other measures, and appropriate enforcement measures, to implement the provisions of this Protocol.

2. The provisions of this Protocol shall not affect the right of a Party to maintain or introduce a more extensive or more publicly accessible pollutant release and transfer register than required by this Protocol.

3. Each Party shall take the necessary measures to require that employees of a facility and members of the public who report a violation by a facility of national laws implementing this Protocol to public authorities are not penalized, persecuted or harassed by that facility or public authorities for their actions in reporting the violation.

4. In the implementation of this Protocol, each Party shall be guided by the precautionary approach as set forth in principle 15 of the 1992 Rio Declaration on Environment and Development.

5. To reduce duplicative reporting, pollutant release and transfer register systems may be integrated to the degree practicable with existing information sources such as repo rting mechanisms under licences or operating permits.

6. Parties shall strive to achieve convergence among national pollutant release and transfer registers.

Article 4
CORE ELEMENTS OF A POLLUTANT RELEASE AND TRANSFER REGISTER SYSTEM

In accordance with this Protocol, each Party shall establish and maintain a publicly accessible national pollutant release and transfer register that:

(a) Is facility-specific with respect to reporting on point sources;

(b) Accommodates reporting on diffuse sources;

(c) Is pollutant-specific or waste-specific, as appropriate;

(d) Is multimedia, distinguishing among releases to air, land and water;

(e) Includes information on transfers;

(f) Is based on mandatory reporting on a periodic basis;

(g) Includes standardized and timely data, a limited number of standardized reporting thresholds and limited provisions, if any, for confidentiality;

(h) Is coherent and designed to be user-friendly and publicly accessible, including in electronic form;

(i) Allows for public participation in its development and modification; and

(j) Is a structured, computerized database or several linked databases maintained by the competent authority.

Article 5
DESIGN AND STRUCTURE

1.Each Party shall ensure that the data held on the register referred to in article 4 are presented in both aggregated and non-aggregated forms, so that releases and transfers can be searched and identified according to:

(a) Facility and its geographical location;

(b) Activity;

(c) Owner or operator, and, as appropriate, company;

(d) Pollutant or waste, as appropriate;

(e) Each of the environmental media into which the pollutant is released; and

(f) As specified in article 7, paragraph 5, the destination of the transfer and, where appropriate, the disposal or recovery operation for waste.

2. Each Party shall also ensure that the data can be searched and identified according to those diffuse sources which have been included in the register.

3. Each Party shall design its register taking into account the possibility of its future expansion and ensuring that the reporting data from at least the ten previous reporting years are publicly accessible.

4. The register shall be designed for maximum ease of public access through electronic means, such as the Internet. The design shall allow that, under normal operating conditions, the information on the register is continuously and immediately available through electronic means.

5. Each Party should provide links in its register to its relevant existing, publicly accessible databases on subject matters related to environmental protection.

6. Each Party shall provide links in its register to the pollutant release and transfer registers of other Parties to the Protocol and, where feasible, to those of other countries.

Article 6
SCOPE OF THE REGISTER

1. Each Party shall ensure that its register includes the information on:

(a) Releases of pollutants required to be reported under article 7, paragraph 2;

(b) Off-site transfers required to be reported under article 7, paragraph 2; and

(c) Releases of pollutants from diffuse sources required under article 7, paragraph 4.

2. Having assessed the experience gained from the development of national pollutant release and transfer registers and the implementation of this Protocol, and

taking into account relevant international processes, the Meeting of the Parties shall review the reporting requirements under this Protocol and shall consider the following issues in its further development:

(a) Revision of the activities specified in annex I;

(b) Revision of the pollutants specified in annex II;

(c) Revision of the thresholds in annexes I and II; and

(d) Inclusion of other relevant aspects such as information on on-site transfers, storage, the specification of reporting requirements for diffuse sources or the development of criteria for including pollutants under this Protocol.

Article 7
REPORTING REQUIREMENTS

1. Each Party shall either:

(a) Require the owner or the operator of each individual facility within its jurisdiction that undertakes one or more of the activities specified in annex I above the applicable capacity threshold specified in annex I, column 1,and:
   (i) Releases any pollutant specified in annex II in quantities exceeding the applicable thresholds specified in annex II, column 1;
   (ii) Transfers off-site any pollutant specified in annex II in quantities exceeding the applicable threshold specified in annex II, column 2, where the Party has opted for pollutant-specific reporting of transfers pursuant to paragraph 5 (d);
   (iii) Transfers off-site hazardous waste exceeding 2 tons per year or other waste exceeding 2,000 tons per year, where the Party has opted for waste-specific reporting of transfers pursuant to paragraph 5 (d); or
   (iv) Transfers off-site any pollutant specified in annex II in waste water destined for waste-water treatment in quantities exceeding the applicable threshold specified in annex II, column 1b;
   (v) To undertake the obligation imposed on that owner or operator pursuant to paragraph 2; or

(b) Require the owner or the operator of each individual facility within its jurisdiction that undertakes one or more of the activities specified in annex I at or above the employee threshold specified in annex I, column 2, and manufactures, processes or uses any pollutant specified in annex II in quantities exceeding the applicable threshold specified in annex II, column 3, to undertake the obligation imposed on that owner or operator pursuant to paragraph 2.

2. Each Party shall require the owner or operator of a facility referred to in paragraph 1 to submit the information specified in paragraphs 5 and 6, and in accordance with the requirements therein, with respect to those pollutants and wastes for which thresholds were exceeded.

3. In order to achieve the objective of this Protocol, a Party may decide with respect to a particular pollutant to apply either a release threshold or a manufacture, process or use threshold, provided that this increases the relevant information on releases or transfers available in its register.

4. Each Party shall ensure that its competent authority collects, or shall designate one or more public authorities or competent bodies to collect, the information on releases of pollutants from diffuse sources specified in paragraphs 7 and 8, for inclusion in its register.

5. Each Party shall require the owners or operators of the facilities required to report under paragraph 2 to complete and submit to its competent authority, the following information on a facility-specific basis:

(a) The name, street address, geographical location and the activity or activities of the reporting facility, and the name of the owner or operator, and, as appropriate, company;

(b) The name and numerical identifier of each pollutant required to be reported pursuant to paragraph 2;

(c) The amount of each pollutant required to be reported pursuant to paragraph 2 released from the facility to the environment in the reporting year, both in aggregate and according to whether the release is to air, to water or to land, including by underground injection;

(d) Either:
   (i) The amount of each pollutant required to be reported pursuant to paragraph 2 that is transferred off-site in the reporting year, distinguishing between the amounts transferred for disposal and for recovery, and the name and address of the facility receiving the transfer; or
   (ii) The amount of waste required to be reported pursuant to paragraph 2 transferred off-site in the reporting year, distinguishing between hazardous waste and other waste, for any operations of recovery or disposal, indicating respectively with 'R' or 'D' whether the waste is destined for recovery or disposal pursuant to annex III and, for transboundary movements of hazardous waste, the name and address of the recoverer or disposer of the waste and the actual recovery or disposal site receiving the transfer;

(e) The amount of each pollutant in waste water required to be reported pursuant to paragraph 2 transferred off-site in t he reporting year; and

(f) The type of methodology used to derive the information referred to in subparagraphs (c) to (e), according to article 9, paragraph 2, indicating whether the information is based on measurement, calculation or estimation.

6. The information referred to in paragraph 5 (c) to (e) shall include information on releases and transfers resulting from routine activities and from extraordinary events.

7. Each Party shall present on its register, in an adequate spatial disaggregation, the information on releases of pollutants from diffuse sources for which that Party determines that data are being collected by the relevant authorities and can be practicably included. Where the Party determines that no such data exist, it shall take measures to initiate reporting on releases of relevant pollutants from one or more diffuse sources in accordance with its national priorities.

8. The information referred to in paragraph 7 shall include information on the type of methodology used to derive the information.

Article 8
REPORTING CYCLE

1. Each Party shall ensure that the information required to be incorporated in its register is publicly available, compiled and presented on the register by calendar year. The reporting year is the calendar year to which that information relates. For each Party, the first reporting year is the calendar year after the Protocol enters into force for that Party. The reporting required under article 7 shall be annual. However, the second reporting year may be the second calendar year following the first reporting year.

2. Each Party that is not a regional economic integration organization shall ensure that the information is incorporated into its register within fifteen months from the end of each reporting year. However, the information for the first reporting year shall be incorporated into its register within two years from the end of that reporting year.

3. Each Party that is a regional economic integration organization shall ensure that the information for a particular reporting year is incorporated into its register six months after the Parties that are not regional economic integration organizations are required to do so.

Article 9
DATA COLLECTION AND RECORD-KEEPING

1. Each Party shall require the owners or operators of the facilities subject to the reporting requirements of article 7 to collect the data needed to determine, in accordance with paragraph 2 below and with appropriate frequency, the facility's releases and off-site transfers subject to reporting under article 7 and to keep available for the competent authorities the records of the data from which the reported information was derived for a period of five years, starting from the end of the reporting year concerned. These records shall also describe the methodology used for data gathering.

2. Each Party shall require the owners or operators of the facilities subject to reporting under article 7 to use the best available information, which may include monitoring data, emission factors, mass balance equations, indirect monitoring or other calculations, engineering judgments and other methods. Where appropriate, this should be done in accordance with internationally approved methodologies.

Article 10
QUALITY ASSESSMENT

1. Each Party shall require the owners or operators of the facilities subject to the reporting requirements of article 7, paragraph 1, to assure the quality of the information that they report.

2. Each Party shall ensure that the data contained in its register are subject to quality assessment by the competent authority, in particular as to their completeness, consistency and credibility, taking into account any guidelines that may be developed by the Meeting of the Parties.

Article 11
PUBLIC ACCESS TO INFORMATION

1. Each Party shall ensure public access to information contained in its pollutant release and transfer register, without an interest having to be stated, and according to the provisions of this Protocol, primarily by ensuring that its register provides for direct electronic access through public telecommunications networks.

2. Where the information contained in its register is not easily publicly accessible by direct electronic means, each Party shall ensure that its competent authority upon request provides that information by any other effective means, as soon as possible and at the latest within one month after the request has been submitted.

3. Subject to paragraph 4, each Party shall ensure that access to information contained in its register is free of charge.

4. Each Party may allow its competent authority to make a charge for reproducing and mailing the specific information referred to in paragraph 2, but such charge shall not exceed a reasonable amount.

5. Where the information contained in its register is

not easily publicly accessible by direct electronic means, each Party shall facilitate electronic access to its register in publicly accessible locations, for example in public libraries, offices of local authorities or other appropriate places.

Article 12
CONFIDENTIALITY

1. Each Party may authorize the competent authority to keep information held on the register confidential where public disclosure of that information would adversely affect:

(a) International relations, national defence or public security;

(b) The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(c) The confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest;

(d) Intellectual property rights; or

(e) The confidentiality of personal data and/or files relating to a natural person if that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law.

The aforementioned grounds for confidentiality shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information relates to releases into the environment.

2. Within the framework of paragraph 1 (c), any information on releases which is relevant for the protection of the environment shall be considered for disclosure according to national law.

3. Whenever information is kept confidential according to paragraph 1, the register shall indicate what type of information has been withheld, through, for example, providing generic chemical information if possible, and for what reason it has been withheld.

Article 13
PUBLIC PARTICIPATION IN THE DEVELOPMENT OF NATIONAL POLLUTANT RELEASE AND TRANSFER REGISTERS

1. Each Party shall ensure appropriate opportunities for public participation in the development of its national pollutant release and transfer register, within the framework of its national law.

2. For the purpose of paragraph 1, each Party shall provide the opportunity for free public access to the information on the proposed measures concerning the development of its national pollutant release and transfer register and for the submission of any comments, information, analyses or opinions that are relevant to the decision-making process, and the relevant authority shall take due account of such public input.

3. Each Party shall ensure that, when a decision to establish or significantly change its register has been taken, information on the decision and the considerations on which it is based are made publicly available in a timely manner.

Article 14
ACCESS TO JUSTICE

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 11, paragraph 2, has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that paragraph has access to a review procedure before a court of law or another independent and impartial body established by law.

2. The requirements in paragraph 1 are without prejudice to the respective rights and obligations of Parties under existing treaties applicable between them dealing with the subject matter of this article.

Article 15
CAPACITY-BUILDING

1. Each Party shall promote public awareness of its pollutant release and transfer register, and shall ensure that assistance and guidance are provided in accessing its register and in understanding and using the information contained in it.

2. Each Party should provide adequate capacity-building for and guidance to the responsible authorities and bodies to assist them in carrying out their duties under this Protocol.

Article 16
INTERNATIONAL COOPERATION

1. The Parties shall, as appropriate, cooperate and assist each other:

(a) In international actions in support of the objectives of this Protocol;

(b) On the basis of mutual agreement between the Parties concerned, in implementing national systems in pursuance of this Protocol;

(c) In sharing information under this Protocol on releases and transfers within border areas; and

(d) In sharing information under this Protocol concerning transfers among Parties.

2. The Parties shall encourage cooperation among each other and with relevant international organizations, as appropriate, to promote:

(a) Public awareness at the international level;

(b) The transfer of technology; and

(c) The provision of technical assistance to Parties that are developing countries and Parties with economies in transition in matters relating to this Protocol.

Article 17
MEETING OF THE PARTIES

1. A Meeting of the Parties is hereby established. Its first session shall be convened no later than two years after the entry into force of this Protocol. Thereafter, ordinary sessions of the Meeting of the Parties shall be held sequentially with or parallel to ordinary meetings of the Parties to the Convention, unless otherwise decided by the Parties to this Protocol. The Meeting of the Parties shall hold an extraordinary session if it so decides in the course of an ordinary session or at the written request of any Party provided that, within six months of it being communicated by the Executive Secretary of the Economic Commission for Europe to all Parties, the said request is supported by at least one third of these Parties.

2. The Meeting of the Parties shall keep under continuous review the implementation and development of this Protocol on the basis of regular reporting by the Parties and, with this purpose in mind, shall:

(a) Review the development of pollutant release and transfer registers, and promote their progressive strengthening and convergence;

(b) Establish guidelines facilitating reporting by the Parties to it, bearing in mind the need to avoid duplication of effort in this regard;

(c) Establish a programme of work;

(d) Consider and, where appropriate, adopt measures to strengthen international cooperation in accordance with article 16;

(e) Establish such subsidiary bodies as it deems necessary;

(f) Consider and adopt proposals for such amendments to this Protocol and its annexes as are deemed necessary for the purposes of this Protocol, in accordance with the provisions of article 20;

(g) At its first session, consider and by consensus adopt rules of procedure for its sessions and those of its subsidiary bodies, taking into account any rules of procedure adopted by the Meeting of the Parties to the Convention;

(h) Consider establishing financial arrangements by consensus and technical assistance mechanisms to facilitate the implementation of this Protocol;

(i) Seek, where appropriate, the services of other relevant international bodies in the achievement of the objectives of this Protocol; and

(j) Consider and take any additional action that may be required to further the objectives of this Protocol, such as the adoption of guidelines and recommendations which promote its implementation.

3. The Meeting of the Parties shall facilitate the exchange of information on the experience gained in reporting transfers using the pollutant-specific and waste-specific approaches, and shall review that experience in order to investigate the possibility of convergence between the two approaches, taking into account the public interest in information in accordance with article 1 and the overall effectiveness of national pollutant release and transfer registers.

4. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organization entitled under article 24 to sign this Protocol but which is not a Party to it, and any intergovernmental organization qualified in the fields to which the Protocol relates, shall be entitled to participate as observers in the sessions of the Meeting of the Parties. Their admission and participation shall be subject to the rules of procedure adopted by the Meeting of the Parties.

5. Any non-governmental organization qualified in the fields to which this Protocol relates which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a session of the Meeting of the Parties shall be entitled to participate as an observer unless one third of the Parties present at the session raise objections. Their admission and participation shall be subject to the rules of procedure adopted by the Meeting of the Parties.

Article 18
RIGHT TO VOTE

1. Except as provided for in paragraph 2, each Party to this Protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 19
ANNEXES

Annexes to this Protocol shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Protocol constitutes at the same time a reference to any annexes thereto.

Article 20
AMENDMENTS

1. Any Party may propose amendments to this Protocol.

2. Proposals for amendments to this Protocol shall be considered at a session of the Meeting of the Parties.
3. Any proposed amendment to this Protocol shall be submitted in writing to the secretariat, which shall communicate it at least six months before the session at which it is proposed for adoption to all Parties, to other States and regional economic integration organizations that have consented to be bound by the Protocol and for which it has not yet entered into force and to Signatories.

4. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the session.

5. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. Any amendment to this Protocol adopted in accordance with paragraph 4 shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties, to other States and regional economic integration organizations that have consented to be bound by the Protocol and for which it has not yet entered into force and to Signatories.

7. An amendment, other than one to an annex, shall enter into force for those Parties having ratified, accepted or approved it on the ninetieth day after the date of receipt by the Depositary of the instruments of ratification, acceptance or approval by at least three fourths of those which were Parties at the time of its adoption. Thereafter it shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

8. In the case of an amendment to an annex, a Party that does not accept such an amendment shall so notify the Depositary in writing within twelve months from the date of its circulation by the Depositary. The Depositary shall without delay inform all Parties of any such notification received. A Party may at any time withdraw a notification of non-acceptance, whereupon the amendment to an annex shall enter into force for that Party.

9. On the expiry of twelve months from the date of its circulation by the Depositary as provided for in paragraph 6, an amendment to an annex shall enter into force for those Parties which have not submitted a notification to the Depositary in accordance with paragraph 8, provided that, at that time, not more than one third of those which were Parties at the time of the adoption of the amendment have submitted such a notification.

10. If an amendment to an annex is directly related to an amendment to this Protocol, it shall not enter into force until such time as the amendment to this Protocol enters into force.

Article 21
SECRETARIAT

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions for this Protocol:

(a) The preparation and servicing of the sessions of the Meeting of the Parties;

(b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Protocol;

(c) The reporting to the Meeting of the Parties on the activities of the secretariat; and

(d) Such other functions as may be determined by the Meeting of the Parties on the basis of available resources.

Article 22
REVIEW OF COMPLIANCE

At its first session, the Meeting of the Parties shall by consensus establish cooperative pr ocedures and institutional arrangements of a nonjudicial, non-adversarial and consultative nature to assess and promote compliance with the provisions of this Protocol and to address cases of noncompliance. In establishing these procedures and arrangements, the Meeting of the Parties shall consider, inter alia, whether to allow for information to be received from members of the public on matters related to this Protocol.

Article 23
SETTLEMENT OF DISPUTES

1. If a dispute arises between two or more Parties about the interpretation or application of this Protocol, they shall seek a solution by negotiation or by any other peaceful means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, a State may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in annex IV.

A regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b).

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2, the dispute may be submitted only to the International Court of Justice, unless the parties to the dispute agree otherwise.

Article 24
SIGNATURE

This Protocol shall be open for signature at Kiev (Ukraine) from 21 to 23 May 2003 on the occasion of the fifth Ministerial Conference "Environment for Europe," and thereafter at United Nations Headquarters in New York until 31 December 2003, by all States which are members of the United Nations and by regional economic integration organizations constituted by sovereign States members of the United Nations to which their member States have transferred competence over matters governed by this Protocol, including the competence to enter into treaties in respect of these matters.

Article 25
DEPOSITARY

The Secretary-General of the United Nations shall act as the Depositary of this Protocol.

Article 26
RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Protocol shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations referred to in article 24.

2. This Protocol shall be open for accession as from 1 January 2004 by the States and regional economic integration organizations referred to in article 24.

3. Any regional economic integration organization referred to in article 24 which becomes a Party without any of its member States being a Party shall be bound by all the obligations under this Protocol. If one or more member States of such an organization is a Party, the organization and its member States shall decide on the ir respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under this Protocol concurrently.

4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 24 shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary of any substantial modifications to the extent of their competence.

Article 27
ENTRY INTO FORCE

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by the States members of such an organization.

3. For each State or regional economic integration organization which ratifies, accepts or approves this Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 28
RESERVATIONS

No reservations may be made to this Protocol.

Article 29
WITHDRAWAL

At any time after three years from the date on which this Protocol has come into force with respect to a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 30
AUTHENTIC TEXTS

The original of this Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE at Kiev, this twenty-first day of May, two thousand and three.
Annexes I-II not attached

ANNEX III

PART A
DISPOSAL OPERATIONS ('D')

- Deposit into or onto land (e.g. landfill)
- Land treatment (e.g. biodegradation of liquid or sludgy discards in soils)
- Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories)

- Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons)
- Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment)
- Release into a water body except seas/oceans
- Release into seas/oceans including sea-bed insertion
- Biological treatment not specified elsewhere in this annex which results in final compounds or mixtures which are discarded by means of any of the operations specified in this part
- Physico-chemical treatment not specified elsewhere in this annex which results in final compounds or mixtures which are discarded by means of any of the operations specified in this part (e.g. evaporation, drying, calcination, neutralization, precipitation)
- Incineration on land
- Incineration at sea
- Permanent storage (e.g. emplacement of containers in a mine)
- Blending or mixing prior to submission to any of the operations specified in this part
- Repackaging prior to submission to any of the operations specified in this part
- Storage pending any of the operations specified in this part

PART B
RECOVERY OPERATIONS ('R')

- Use as a fuel (other than in direct incineration) or other means to generate energy
- Solvent reclamation/regeneration
- Recycling/reclamation of organic substances which are not used as solvents
- Recycling/reclamation of metals and metal compounds
- Recycling/reclamation of other inorganic materials
- Regeneration of acids or bases
- Recovery of components used for pollution abatement
- Recovery of components from catalysts
- Used oil re-refining or other reuses of previously used oil
- Land treatment resulting in benefit to agriculture or ecological improvement
- Uses of residual materials obtained from any of the recovery operations specified above in this part
- Exchange of wastes for submission to any of the recovery operations specified above in this part
- Accumulation of material intended for any operation specified in this part

ANNEX IV
ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 23, paragraph 2, of this Protocol, a party or parties shall notify the other party or parties to the dispute by diplomatic means as well as the secretariat of the subject matter of arbitration and indicate, in particular, the articles of this Protocol whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Protocol.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the notification referred to in paragraph 1, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two - month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two -month period.

5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Protocol.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.
7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:
(a) Provide it with all relevant documents, facilities and information;

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

13. The arbitral tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to this Protocol which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Protocol.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

62. CONVENTION ON THE PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW

PREAMBLE

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Convinced of the need to pursue a common criminal policy aimed at the protection of the environment;

Considering that unregulated industrial development may give rise to a degree of pollution which poses risks to the environment;

Considering that the life and health of human beings, the environmental media and fauna and flora must be protected by all possible means;

Considering that the uncontrolled use of technology and the excessive exploitation of natural resources entail serious environmental hazards which must be overcome by appropriate and concerted measures;

Recognising that, whilst the prevention of the impairment of the environment must be achieved primarily through other measures, criminal law has an important part to play in protecting the environment;

Recalling that environmental violations having serious consequences must be established as criminal offences subject to appropriate sanctions;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment and desirous of fostering international co-operation to this end;

Convinced that imposing criminal or administrative sanctions on legal persons can play an effective role in the prevention of environmental violations and noting the growing international trend in this regard;

Mindful of the existing international conventions which already contain provisions aiming at the protection of the environment through criminal law;

Having regard to the conclusions of the 7th and 17th Conferences of European Ministers of Justice held in Basle in 1972 and in Istanbul in 1990, and to Recommendation 1192 (1992) of the Parliamentary Assembly,

Have agreed as follows:

SECTION I
USE OF TERMS

Article 1
Definitions

For the purposes of this Convention:

a. "unlawful" means infringing a law, an administrative regulation or a decision taken by a competent authority, aiming at the protection of the environment;

b. "water" means all kinds of groundwater and surface water including the water of lakes, rivers, oceans and seas.

SECTION II
MEASURES TO BE TAKEN AT NATIONAL LEVEL

Article 2
Intentional Offences

1. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law:

a. the discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which:
   i causes death or serious injury to any person, or
   ii creates a significant risk of causing death or serious injury to any person;

b. the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes or is likely to cause their lasting deterioration or death or serious injury to any person or substantial damage to protected monuments, other protected objects, property, animals or plants;

c. the unlawful disposal, treatment, storage, transport, export or import of hazardous waste which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

d. the unlawful operation of a plant in which a dangerous activity is carried out and which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

e. the unlawful manufacture, treatment, storage, use, transport, export or import of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants,
when committed intentionally.

2. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law aiding or abetting the commission of any of the offences established in accordance with paragraph 1 of this article.

Article 3
Negligent Offences

1. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law, when committed with negligence, the offences enumerated in Article 2, paragraph 1 a to e.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article, in part or in whole, shall only apply to offences which were committed with gross negligence.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article, in part or in whole, shall not apply to:
- subparagraph 1 a ii of Article 2,
- subparagraph 1 b of Article 2, insofar as the offence relates to protect monuments, to other protected objects or to property.

Article 4
Other Criminal Offences or Administrative Offences

Insofar as these are not covered by the provisions of Articles 2 and 3, each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences or administrative offences, liable to sanctions or other measures under its domestic law, when committed intentionally or with negligence:

a. the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water;

b. the unlawful causing of noise;

c. the unlawful disposal, treatment, storage, transport, export or import of waste;

d. the unlawful operation of a plant;

e. the unlawful manufacture, treatment, use, transport, export or import of nuclear materials, other radioactive substances or hazardous chemicals;

f. the unlawful causing of changes detrimental to natural components of a national park, nature reserve, water conservation area or other protected areas;

g. the unlawful possession, taking, damaging, killing or trading of or in protected wild flora and fauna species.

Article 5
Jurisdiction

1. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention when the offence is committed:

a. in its territory; or

b. on board a ship or an aircraft registered in it or flying its flag; or

c. by one of its nationals if the offence is punishable under criminal law where it was committed or if the place where it was committed does not fall under any territorial jurisdiction.

2. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party after a request for extradition.

3. This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

4. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraphs 1 c and 2 of this article, in part or in whole, shall not apply.

Article 6
Sanctions for Environmental Offences

Each Party shall adopt, in accordance with the relevant international instruments, such appropriate measures as may be necessary to enable it to make the offences established in accordance with Articles 2 and 3 punishable by criminal sanctions which take into account the serious nature of these offences. The sanctions available shall include imprisonment and pecuniary sanctions and may include reinstatement of the environment.

Article 7
Confiscation Measures

1. Each Party shall adopt such appropriate measures as may be necessary to enable it to confiscate instrumentalities and proceeds, or property the value of which corresponds to such proceeds, in respect of offences enumerated in Articles 2 and 3.

2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to

the Secretary General of the Council of Europe, declare that it will not apply paragraph 1 of this Article either in respect of offences specified in such declaration or in respect of certain categories of instrumentalities or of proceeds, or property the value of which corresponds to such proceeds.

Article 8
Reinstatement of the Environment

Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will provide for reinstatement of the environment according to the following provisions of this article:

a. the competent authority may order the reinstatement of the environment in relation to an offence established in accordance with this Convention. Such an order may be made subject to certain conditions;

b. where an order for the reinstatement of the environment has not been complied with, the competent authority may, in accordance with domestic law, make it executable at the expense of the person subject to the order or that person may be liable to other criminal sanctions instead of or in addition to it.

Article 9
Corporate Liability

1. Each Party shall adopt such appropriate measures as may be necessary to enable it to impose criminal or administrative sanctions or measures on legal persons on whose behalf an offence referred to in Articles 2 or 3 has been committed by their organs or by members thereof or by another representative.

2. Corporate liability under paragraph 1 of this article shall not exclude criminal proceedings against a natural person.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 of this article or any part thereof or that it applies only to offences specified in such declaration.

Article 10
Co-operation between Authorities

1. Each Party shall adopt such appropriate measures as may be necessary to ensure that the authorities responsible for environmental protection co-operate with the authorities responsible for investigating and prosecuting criminal offences:

a. by informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that an offence under Article 2 has been committed;

b. by providing, upon request, all necessary information to the latter authorities, in accordance with domestic law.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 a of this article or that it applies only to offences specified in such declaration.

Article 11
Rights for Groups to Participate in Proceedings

Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will, in accordance with domestic law, grant any group, foundation or association which, according to its statutes, aims at the protection of the environment, the right to participate in criminal proceedings concerning offences established in accordance with this Convention.

SECTION III
MEASURES TO BE TAKEN AT INTERNATIONAL LEVEL

Article 12
International Co-operation

1. The Parties shall afford each other, in accordance with the provisions of relevant international instruments on international co-operation in criminal matters and with their domestic law, the widest measure of co-operation in investigations and judicial proceedings relating to criminal offences established in accordance with this Convention.

2. The Parties may afford each other assistance in investigations and proceedings relating to those acts defined in Article 4 of this Convention which are not covered by paragraph 1 of this article.

SECTION IV
FINAL CLAUSES

Article 13
Signature and Entry into Force

1. This Convention shall be open for signature by the member States of the Council of Europe and non-member States which have participated in its elaboration. Such States may express their consent to be bound by:

a. signature without reservation as to ratification, acceptance or approval; or

b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

4. In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraph 1.

Article 14
Accession to the Convention

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting States to the Convention, may invite any State not a member of the Council of Europe to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 15
Territorial Application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 16
Relationship with other Conventions and Agreements

1. This Convention does not affect the rights and undertakings derived from international multilateral conventions concerning special matters.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Convention or otherwise have established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate those relations accordingly, in lieu of the present Convention, if it facilitates international co-operation.

Article 17
Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more of the reservations provided for in Article 3, paragraphs 2 and 3, Article 5, paragraph 4, Article 7, paragraph 2, Article 9, paragraph 3 and Article 10, paragraph 2. No other reservation may be made.

2. Any State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

3. A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article 18
Amendments

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 14.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems and may adopt the amendment.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 19
Settlement of Disputes

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.

2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 20
Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 21
Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Convention of:

a. any signature;

b. the deposit of any instrument of ratification, acceptance, approval or accession;

c. any date of entry into force of this Convention in accordance with Articles 13 and 14;

d. any reservation made under Article 17, paragraph 1;

e. any proposal for amendment made under Article 18, paragraph 1;

f. any other act, notification or communication relating to this Convention.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE AT STRASBOURG, the 4th day of November 1998, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to it.

63. PROTOCOL ON SHARED WATERCOURSE SYSTEMS IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) REGION (REVISED)

PREAMBLE

WE, the Heads of State or Government of:

The Republic of Angola; The Republic of Botswana; The Democratic Republic of the Congo; The Kingdom of Lesotho; The Republic of Malawi; The Republic of Mauritius; The Republic of Mozambique; The Republic of Namibia; The Republic of Seychelles; The Republic of South Africa; The Kingdom of Swaziland; The United Republic of Tanzania; The Republic of Zambia; The Republic of Zimbabwe;

BEARING in mind the progress with the development and codification of international water law initiated by the Helsinki Rules and that the United Nations subsequently adopted the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses;

RECOGNISING the relevant provisions of Agenda 21 of the United Nations Conference on Environment and Development, the concepts of environmentally sound management, sustainable development and equitable utilisation of shared watercourses in the SADC Region;

CONSIDERING the existing and emerging socio-economic development programmes in the SADC Region and their impact on the environment;

DESIROUS of developing close cooperation for judicious, sustainable and co-ordinated utilisation of the resources of the shared watercourses in the SADC Region;

CONVINCED of the need for co-ordinated and environmentally sound development of the resources of shared watercourses in the SADC Region in order to support sustainable socio-economic development;

RECOGNISING that there are as yet no regional conventions regulating common utilisation and management of the resources of shared watercourses in the SADC Region;

MINDFUL of the existence of other Agreements in the SADC Region regarding the common utilisation of certain watercourses; and

IN ACCORDANCE with Article 22 of the Treaty, have agreed as follows:

Article 1
Definitions

1. For the purposes of this Protocol the following terms shall have the meanings ascribed to them hereunder:

"Agricultural use" means use of water for irrigation purposes;

"Domestic use" means use of water for drinking, washing, cooking, bathing, sanitation and stock watering purposes;

"Emergency situation" means a situation that causes or poses an imminent threat of causing serious harm to Watercourse States and which results suddenly from natural causes, such as torrential rains, floods, landslides or earthquakes or from human conduct;

"Environmental use" means the use of water for the preservation and maintenance of ecosystems;

"Industrial use" means use of water for commercial, electrical power generation, industrial, manufacturing and mining purposes;

"Management of a shared watercourse" means:
(i) planning the sustainable development of a shared watercourse and providing for the implementation of any plans adopted; and
(ii) otherwise promoting the rational, equitable and optimal utilisation, protection, and control of the watercourse;

"Navigational use" means use of water for sailing whether it be for transport, fishing, recreation or tourism;

"Pollution of a shared watercourse" means any detrimental alteration in the composition or quality of the waters of a shared watercourse which results directly or indirectly from human conduct;

"Regulation of the flow of the waters of a shared watercourse" means the use of hydraulic works or any other continuing measure to alter, vary or otherwise control the flow of waters of a shared watercourse;

"Shared watercourse" means a watercourse passing through or forming the border between two or more Watercourse States;

"Significant Harm"means non-trivial harm capable of being established by objective evidence without necessarily rising to the level of being substantial;

" State Party " means a Member of SADC which is a party to this Protocol;

"Watercourse" means a system of surface and ground waters consisting by virtue of their physical relationship

a unitary whole normally flowing into a common terminus such as the sea, lake or aquifer;

"Watercourse State" means a State Party in whose territory part of a watercourse is situated.

2. Any other term defined in the Treaty and used in this Protocol shall have the same meaning as ascribed to it in the Treaty.

Article 2
Objective

The overall objective of this Protocol is to foster closer cooperation for judicious, sustainable and co-ordinated management, protection and utilisation of shared watercourses and advance the SADC agenda of regional integration and poverty alleviation. In order to achieve this objective, this Protocol seeks to:

(a) promote and facilitate the establishment of shared watercourse agreements and Shared Watercourse Institutions for the management of shared watercourses;

(b) advance the sustainable, equitable and reasonable utilisation of the shared watercourses;

(c) promote a co-ordinated and integrated environmentally sound development and management of shared watercourses;

(d) promote the harmonisation and monitoring of legislation and policies for planning, development, conservation, protection of shared watercourses, and allocation of the resources thereof; and

(e) promote research and technology development, information exchange, capacity building, and the application of appropriate technologies in shared watercourses management.

Article 3
General Principles

For the purposes of this Protocol the following general principles shall apply:

1. The State Parties recognise the principle of the unity and coherence of each shared watercourse and in accordance with this principle, undertake to harmonise the water uses in the shared watercourses and to ensure that all necessary interventions are consistent with the sustainable development of all Watercourse States and observe the objectives of regional integration and harmonisation of their socio-economic policies and plans.

2. The utilisation of shared watercourses within the SADC Region shall be open to each Watercourse State, in respect of the watercourses within its territory and without prejudice to its sovereign rights, in accordance with the principles contained in this Protocol. The utilisation of the resources of the watercourses shall include agricultural, domestic, industrial, navigational and environmental uses.

3. State Parties undertake to respect the existing rules of customary or general international law relating to the utilisation and management of the resources of shared watercourses.

4. State Parties shall maintain a proper balance between resource development for a higher standard of living for their people and conservation and enhancement of the environment to promote sustainable development.

5. State Parties undertake to pursue and establish close cooperation with regard to the study and execution of all projects likely to have an effect on the regime of the shared watercourse.

6. State Parties shall exchange available information and data regarding the hydrological, hydro geological, water quality, meteorological and environmental condition of shared watercourses.

7.(a) Watercourse States shall in their respective territories utilise a shared watercourse in an equitable and reasonable manner. In particular, a shared watercourse shall be used and developed by Watercourse States with a view to attain optimal and sustainable utilisation thereof and benefits therefrom, taking into account the interests of the Watercourse States concerned, consistent with adequate protection of the watercourse for the benefit of current and future generations.

(b) Watercourse States shall participate in the use, development and protection of a shared watercourse in an equitable and reasonable manner. Such participation, includes both the right to utilise the watercourse and the duty to cooperate in the protection and development thereof, as provided in this Protocol.

8.(a) Utilisation of a shared watercourse in an equitable and reasonable manner within the meaning of Article 7(a) and (b) requires taking into account all relevant factors and circumstances including:

(i) geographical, hydrographical, hydrological, climatical, ecological and other factors of a natural character;
(ii) the social, economic and environmental needs of the Watercourse States concerned;
(iii) the population dependent on the shared watercourse in each Watercourse State;
(iv) the effects of the use or uses of a shared watercourse in one Watercourse State on other Watercourse States;
(v) existing and potential uses of the watercourse;

(vi) conservation, protection, development and economy of use of the water resources of the shared watercourse and the costs of measures taken to that effect; and
(vii) the availability of alternatives, of comparable value, to a particular planned or existing use.

(b) The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is an equitable and reasonable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

9. State Parties shall deal with planned measures in conformity with the procedure set out in Article 4 (1).

10.(a) State Parties shall, in utilising a shared watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other Watercourse States.

(b) Where significant harm is nevertheless caused to another Watercourse State, the State whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard for the provisions of paragraph (a) above in consultation with the affected States, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

(c) Unless the Watercourse States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who have suffered or are under a serious threat of suffering significant transboundary harm as a result of activities related to a shared watercourse, a Watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory.

Article 4
Specific Provisions

1. Planned Measures

(a) Information concerning planned measures
State Parties shall exchange information and consult each other and, if necessary, negotiate the possible effects of planned measures on the condition of a shared watercourse.

(b) Notification concerning planned measures with possible adverse effects.
Before a State Party implements or permits the implementation of planned measures which may have a significant adverse effect upon other Watercourse States, it shall provide those States with timely notification thereof. Such notification shall be accompanied by available technical data and information, including the results of any environmental impact assessment, in order to enable the notified States to evaluate the possible effects of the planned measures.

(c) Period for reply to notification
(i) Unless otherwise agreed, a State Party providing a notification under paragraph (b) shall allow the notified States a period of six months within which to study and evaluate the possible effects of the planned measures and to communicate the findings to it;
(ii) This period shall, at the request of a notified State for which the evaluation of the planned measures poses difficulty, be extended for a period of six months.

(d) Obligations of the notifying State during the period for reply During the period referred to in paragraph (c), the notifying State:
(i) shall cooperate with the notified States by providing them, on request, with any additional data and information that is available and necessary for an accurate evaluation; and
(ii) shall not implement or permit the implementation of the planned measures without the consent of the notified States.

(e) Reply to Notification
The notified States shall communicate their findings to the notifying State as early as possible within the period applicable pursuant to paragraph (c). If a notified State finds that implementation of the planned measures would be inconsistent with the provisions of Article 3 (7) or (10), it shall attach to its finding a documented explanation setting the reasons for the findings.

(f) Absence of reply to notification
(i) If, within the period applicable pursuant to paragraph (c), the notifying State receives no communication under (e), it may, subject to its obligations under Article 3 (7) and (10), proceed with the implementation of the planned measures, in accordance with the notification and any other data and information provided to the notified States.
(ii) Any claim to compensation by a notified State which has failed to reply within the period applicable pursuant to paragraph (c) may be offset by the costs incurred by the notifying State for action undertaken after the expiration of the time for a reply which would not have been undertaken if the notified State had objected within that period.

(g) Consultations and negotiations concerning planned measures
  (i) Communication is made under paragraph (e) that implementation of the planned measures would be inconsistent with the provisions of Article 3 (7) or (10), the notifying State and the State making the communication shall enter into consultations and, if necessary, negotiations with a view to arriving at an equitable resolution of the situation.
  (ii) Consultations and negotiations shall be conducted on the basis that each State must in good faith pay reasonable regard to the rights and legitimate interests of the other States.
  (iii) During the course of the consultations and negotiations, the notifying State shall, if so requested by the notified State at the time it makes the communication, refrain from implementing or permitting the implementation of the planned measures for a period of six months unless otherwise agreed.

(h) Procedures in the absence of notification
  (i) If a State Party has reasonable grounds to believe that another Watercourse State is planning measures that may have a significant adverse effect upon it, the former State may request the latter to apply the provisions of paragraph (b). The request shall be accompanied by a documented explanation setting forth its grounds.
  (ii) If the State planning the measures finds that it is not under an obligation to provide a notification under paragraph (b), it shall so inform the other State, providing a documented explanation setting forth the reasons for such finding. If this finding does not satisfy the other State, the two States shall, at the request of that other State, promptly enter into consultations and negotiations in the manner provided in sub-paragraphs (i) and (ii) of paragraph (g).
  (iii) During the course of the consultations and negotiations, the State planning the measures shall, if so requested by the other State at the time it requests the initiation of consultations and negotiations, refrain from implementing or permitting the implementation of those measures for a period of six months unless otherwise agreed.

(i) Urgent implementation of planned measures
  (i) In the event that the implementation of planned measures is of the utmost urgency in order to protect public health, public safety or other equally important interests, the State planning the measures may, subject to paragraphs 7 and 10 of Article 3, immediately proceed to implementation, notwithstanding the provisions of paragraph (d) and sub-paragraph (iii) of paragraph (g).
  (ii) In such case, a formal declaration of the urgency of the measures shall be communicated without delay to the other Watercourse States referred to in paragraph (b) together with the relevant data and information.
  (iii) The State planning the measures shall, at the request of any of the States referred to in paragraph (ii), promptly enter into consultations and negotiations with it in the manner indicated in sub-paragraphs (i) and (ii) of paragraph (g).

2. Environmental Protection and Preservation

(a) Protection and preservation of ecosystems State Parties shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of a shared watercourse.

(b) Prevention, reduction and control of pollution
  (i) State Parties shall, individually and, where appropriate, jointly, prevent, reduce and control the pollution and environmental degradation of a shared watercourse that may cause significant harm to other Watercourse States or to their environment, including harm to human health or safety, to the use of the waters for any beneficial purpose or to the living resources of the watercourse.
  (ii) Watercourse States shall take steps to harmonise their policies and legislation in this connection.
  (iii) State Parties shall, at the request of any one or more of them, consult with a view to arriving at mutually agreeable measures and methods to prevent, reduce and control pollution of a shared watercourse, such as:

(aa) setting joint water quality objectives and criteria;

(bb) establishing techniques and practices to address pollution from point and non-point sources;

(cc) establishing lists of substances the introduction of which, into the waters of a shared watercourse, is to be prohibited, limited, investigated or monitored.

(c) Introduction of alien or new species
State Parties shall take all measures necessary to prevent the introduction of species, alien or new, into a shared watercourse which may have effects detrimental to the ecosystems of the watercourse resulting in significant harm to other Watercourse States.

(d) Protection and preservation of the aquatic environment. State Parties shall individually and, where appropriate, in cooperation with other States, take all measures with respect to a shared watercourse that are necessary to protect and preserve the aquatic environment, including estuaries, taking into account generally accepted international rules and standards.

3. Management of Shared Watercourses

(a) Management

Watercourse States shall, at the request of any of them, enter into consultations concerning the management of a shared watercourse, which may include the establishment of a joint management mechanism.

(b) Regulation

(i) Watercourse States shall co-operate, where appropriate, to respond to needs or opportunities for regulation of the flow of the waters of a shared watercourse.

(ii) Unless otherwise agreed, Watercourse States shall participate on an equitable and reasonable basis in the construction and maintenance or defrayal of the costs of such regulation works as they may have agreed to undertake.

(c) Installations

(i) Watercourse States shall, within their respective territories, employ their best efforts to maintain and protect installations, facilities and other works related to a shared watercourse.

(ii) Watercourse States shall, at the request of any of them which has reasonable grounds to believe that it may suffer significant adverse effects, enter into consultations with regards to:

(aa) the safe operation and maintenance of installations, facilities, or other works related to a shared watercourse; and

(bb) the protection of installations, facilities or other works from wilful or negligent acts or the forces of nature.

(iii) Shared watercourses and related installations, facilities and other works shall enjoy the protection accorded by the principles and rules of international law applicable in international and non-international armed conflict and shall not be used in violation of those principles and rules.

4. Prevention and Mitigation of Harmful Conditions

(a) State Parties shall individually and, where appropriate, jointly take all appropriate measures to prevent or mitigate conditions related to a shared watercourse that may be harmful to other Watercourse States, whether resulting from natural causes or human conduct, such as floods, water-borne diseases, siltation, erosion, salt-water intrusion, drought or desertification.

(b) State Parties shall require any person intending to use the waters of a shared watercourse within their respective territories for purposes other than domestic or environmental use or who intends to discharge any type of waste into such waters, to first obtain a permit, licence or other similar authorisation from the relevant authority within the State concerned. The permit or other similar authorisation shall be granted only after such State has determined that the intended use or discharge will not cause significant harm on the regime of the watercourse.

5. Emergency Situations

State Parties shall, without delay, notify other potentially affected States, the SADC Water Sector Co-ordinating Unit and competent international organisations of any emergency situation originating within their respective territories and promptly supply the necessary information to such affected States and competent organisations with a view to co-operate in the prevention, mitigation, and elimination, of harmful effects of the emergency.

Article 5
Institutional Framework for Implementation

1. The following institutional mechanisms responsible for the implementation of this Protocol are hereby established:

(a) SADC Water Sector Organs

(i) the Committee of Water Ministers;

(ii) the Committee of Water Senior Officials;

(iii) the Water Sector Co-ordinating Unit; and

(iv) the Water Resources Technical Committee and sub-Committees.

(b) Shared Watercourse Institutions

(c) The Committee of Water Ministers shall consist of the Permanent Secretaries or officials of equivalent rank responsible for water.

(d) The Committee of Water Senior Officials shall consist of the Permanent Secretaries or officials of equivalent rank responsible for water.

(e) The Water Sector Co-ordinating Unit which shall be the executing agency of the Water Sector shall be headed by a Co-ordinator appointed by the State Party responsible for co-ordinating the Water Sector, and he or she shall be assisted by such supporting staff of professional, administrative and secretarial personnel as the Co-ordinator may deem necessary.

2. The SADC Water Sector Organs shall have the following functions:

(a) The Committee of Water Ministers

(i) Oversee and monitor the implementation of the Protocol and assist in resolving potential conflicts on shared watercourses.

(ii) Guide and co-ordinate cooperation and harmonisation of legislation, policies, strategies, programmes and projects.

(iii) Advise the Council on policies to be pursued.

(iv) Recommend to Council the creation of such other organs as may be necessary for the implementation of this Protocol.

(v) Provide regular updates to the Council on the status of the implementation of this Protocol.

(b) The Committee of Water Senior Officials
(i) Examine all reports and documents put before them by the Water Resources Technical Committee and the Water Sector Co-ordinating Unit.
(ii) Initiate and advise the Committee of Water Ministers on policies, strategies, programmes and projects to be presented to the Council for approval.
(iii) Recommend to the Committee of Water Ministers the creation of such other organs as may be necessary for the implementation of this Protocol.
(iv) Provide regular updates to the Committee of Water Ministers on the status of the implementation of this Protocol.

(c) The Water Sector Co-ordinating Unit
(i) Monitor the implementation of this Protocol.
(ii) Liaise with other SADC organs and Shared Watercourse Institutions on matters pertaining to the implementation of this Protocol.
(iii) Provide guidance on the interpretation of this Protocol.
(iv) Advise State Parties on matters pertaining to this Protocol.
(v) Organise and manage all technical and policy meetings.
(vi) Draft terms of reference for consultancies and manage the execution of those assignments.
(vii) Mobilise or facilitate the mobilisation of financial and technical resources for the implementation of this Protocol.
(viii) Annually submit a status report on the implementation of the Protocol to the Council through the Committee of Water Ministers.
(ix) Keep an inventory of all shared watercourse management institutions and their agreements on shared watercourses within the SADC Region

(d) The Water Resources Technical Committee
(i) Provide technical support and advice to the Committee of Water Senior Officials through the Water Sector Co-ordinating Unit with respect to the implementation of this Protocol.
(ii) Discuss issues tabled by the Water Sector Co-ordinating Unit and prepare for the Committee of Water Senior Officials.
(iii) Consider and approve terms of reference for consultancies, including the appointment of consultants.
(iv) Recommend to the Committee of Water Senior Officials any matter of interest to it on which agreement has not been reached.
(v) Appoint working groups for short-term tasks and standing sub-committees for longer term tasks.
(vi) Address any other issues that may have implications on the implementation of this Protocol.

3. Shared Watercourse Institutions
(a) Watercourse States undertake to establish appropriate institutions such as watercourse commissions, water authorities or boards as may be determined.

(b) The responsibilities of such institutions shall be determined by the nature of their objectives which must be in conformity with the principles set out in this Protocol.

(c) Shared Watercourse Institutions shall provide on a regular basis or as required by the Water Sector Co-ordinating Unit, all the information necessary to assess progress on the implementation of the provisions of this Protocol, including the development of their respective agreements.

4. State Parties undertake to adopt appropriate measures to give effect to the institutional framework referred to in this Article for the implementation of this Protocol.

Article 6
Shared Watercourse Agreements

1. In the absence of any agreement to the contrary, nothing in this Protocol shall affect the rights or obligations of a Watercourse State arising from agreements in force for it on the date on which it became a party to the Protocol.

2. Notwithstanding the provisions of paragraph 1, parties to agreements referred to in paragraph 1 may harmonise such agreements with this Protocol.

3. Watercourse States may enter into agreements, which apply the provision of this Protocol to the characteristics and uses of a particular shared watercourse or part thereof.

4. Where a watercourse agreement is concluded between two or more Watercourse States, it shall define the waters to which it applies. Such an agreement may be entered into with respect to an entire shared watercourse or any part thereof or a particular project, programme or use except insofar as the agreement adversely affects, to a significant extent, the use by one or more other Watercourse States of the waters of the watercourse, without their express consent.

5. Where some but not all Watercourse States to a particular shared watercourse are parties to an agreement, nothing contained in such agreement shall affect the rights or obligations under this Protocol of Watercourse States that are not parties to such an agreement.

6. Every Watercourse State is entitled to participate in the negotiation of and to become a party to any watercourse agreement that applies to the entire shared watercourse, as well as to participate in any relevant consultations.

7. A Watercourse State whose use of a shared watercourse may be affected to a significant extent by the implementation of a proposed watercourse agreement that applies only to a part of the watercourse or to a particular project, programme or use is entitled to participate in consultations on such an agreement and, where appropriate, in the negotiation thereof in good faith with a view to becoming a party thereto, to the extent that its use is thereby affected.

Article 7
Settlement of Disputes

1. State Parties shall strive to resolve all disputes regarding the implementation, interpretation or application of the provisions of this Protocol amicably in accordance with the principles enshrined in Article 4 of the Treaty.

2. Disputes between State Parties regarding the interpretation or application of the provisions of this Protocol which are not settled amicably, shall be referred to the Tribunal.

3. If a dispute arises between SADC on the one hand and a State Party on the other, a request shall be made for an advisory opinion in accordance with Article 16(4) of the Treaty.

Article 8
Signature

This Protocol shall be signed by the duly authorised representatives of the Member States.

Article 9
Ratification

This Protocol shall be ratified by the signatory States in accordance with their constitutional procedures.

Article 10
Entry into Force

This Protocol and any subsequent amendments thereof shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the Member States listed in the Preamble.

Article 11
Accession

This Protocol and any subsequent amendments thereof shall remain open for accession by any Member State.

Article 12
Amendment

1. An amendment to this Protocol shall be adopted by a decision of three-quarters of the Summit Members who are a party to this Protocol.

2. A proposal for any amendment to this Protocol may be made to the Executive Secretary by any State Party for preliminary consideration by the Council, provided however, that the proposed amendment shall not be submitted to the Council for preliminary consideration until all Member States have been duly notified of it and a period of three (3) months has elapsed after such notification.

Article 13
Withdrawal

1. Any State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving to the Executive Secretary, a written notice to that effect.

2. Any State Party that has withdrawn pursuant to paragraph 1 shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective, but shall remain bound by the obligations herein for a period of twelve (12) months from the date of giving notice to the date the withdrawal becomes effective.

Article 14
Termination

This Protocol may be terminated by a decision of three-quarters of Members of the Summit.

Article 15
Depositary

1. The original of this Protocol and all instruments of ratification and accession shall be deposited with the Executive Secretary, who shall transmit certified copies to all Member States.

2. The Executive Secretary shall register this Protocol with the Secretariats of the United Nations and the Organisation of African Unity.

Article 16
Protocol on Shared Watercourse Systems in the SADC Region

1. Upon entry into force of this Protocol, the Protocol on Shared Watercourse Systems in the Southern African Development Community (SADC) Region, which entered into force on 29th September 1998, shall be repealed and replaced by this Protocol.

2. The rights and obligations of any State Party to the Protocol on Shared Watercourse Systems in the SADC Region, which does not become a party to this Protocol, shall remain in force for twelve (12) months after this Protocol has entered into force.

IN WITNESS WHEREOF, WE, the Heads of State or Government, or duly authorised representatives, of SADC Member States have signed this Protocol.

DONE AT Windhoek, this 7th day of August 2000 in three original texts in the English, French and Portuguese languages, all texts being equally authentic.

Unofficial translation

64. CENTRAL AMERICAN AGREEMENT ON THE SAFETY OF MODERN BIOTECHNOLOGY

PREAMBLE

Being Parties to the Convention on Biological Diversity and recalling particularly Article 19, paragraphs 3 and 4, and Article 8 (g) of the Convention,

Aware of the adoption of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity,

Emphasizing that the Convention for the Conservation of the Biodiversity and the Protection of Priority Wilderness Areas in Central America obligates the States to development mechanisms for the conservation and sustainable use of biological diversity,

Noting that regional cooperation should constitute a fundamental instrument for the solution of ecological problems, owing to the deep interdependence of the States of the region,

Recalling that the region is an exceptionally rich zone from a biological and cultural point of view and, at the same time, a centre of origin and of genetic diversity,

Aware of the rapid expansion of modern biotechnology and the growing public concern over its potential adverse effects on biological diversity, taking also into account risks to human health,

Recognizing that modern biotechnology has great potential for human well-being if developed and used with adequate safety measures to protect biological diversity and human health,

Reaffirming the importance of the principle of precaution as an institution of environmental law,

Taking into account the limited capabilities of many the States to cope with the risks resulting from modern biotechnology,

Underscoring the need to respond to the legitimate interests and rights of consumers,

We have agreed to sign the present instrument, known as the:

CENTRAL AMERICAN AGREEMENT ON THE SAFETY OF MODERN BIOTECHNOLOGY

CHAPTER I
OBJECTIVE, SCOPE OF APPLICATION AND OTHER GENERAL PROVISIONS

Article 1
Objective

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Agreement is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements. A further objective is to establish national minimum standards and provisions aimed at attaining a common policy and legal framework vis-à-vis non-Party States.

Article 2
National Minimum Standards and General Provisions

1. Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations stemming from this Agreement.

2. The Parties shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.

3. The present instrument shall not affect the sovereignty of each of the Parties to take pertinent action to ensure the conservation and sustainable use of biological diversity, taking into account risks to human health, Furthermore, it shall not affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

4. No provision in this Agreement shall be interpreted as restricting the right of a Party to adopt stricter measures than those established in this Agreement to ensure the conservation and sustainable use of

biological diversity, taking into account the risks to human health, provided that such measures are consistent with the objective and the provisions of this Agreement and are in accordance with that Party's other obligations under international law.

5. The Parties are encouraged to take into account, as appropriate, available expertise, instruments and work undertaken in international forums with competence in the area of risks to human health.

6. The Parties shall establish, in accordance with their respective legal codes, appropriate legislation to regulate the contained use, release into the environment and marketing of living modified organisms resulting from modern biotechnology.

7. The Parties shall adapt their legal frameworks or formulate new ones to reduce and manage the risks to biological diversity, taking into account human health, stemming from the use, handling, transfer, release into the environment and marketing of living modified organisms. The Parties, in accordance with their national capacities, shall regulate living modified organisms for agricultural, livestock, industrial and other uses. The Parties may progressively regulate each of the different types of living modified organisms for different uses considering the resources and capacities available. Similarly, when establishing these legal frameworks, the Parties shall consider the need to determine appropriate transitory and temporary provisions, so that the natural or legal persons who carry out the activities to be regulated can adapt these activities to the new legal regulations.

8. The Parties, in accordance with their respective bodies of law, shall try to establish their national legal frameworks, regulating on a case-by-case and step-by-step basis, making cost-benefit analyses and creating appropriate legal regulations on liability and redress for damage. They shall also establish National Commissions with the broadest possible participation of institutions and experts to ensure attainment of the objectives in this Agreement.

9. The Parties, in their decisions related to the safety of modern biotechnology, shall apply the precautionary approach in a manner compatible with their international obligations.

Article 3
Use of Terms

For the purposes of this Agreement:

a) "Parties" means the States that have ratified this Agreement.

b) "CCAD" means the Central American Commission on Environment and Development.

c) "SICA" means the Central American Integration System.

d) "Contained use" means any operation, undertaken within a facility, installation or other physical structure, that involves the handling of living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment.

e) "Export" means intentional transboundary movement from one Party to another Party.

f) "Exporter" means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported.

g) "Import" means intentional transboundary movement into one Party from another Party.

h) "Importer" means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported.

i) "Precautionary principle" means the principle of national and international law, in accordance with which the absence of scientific certainty about the adverse effects on the conservation and sustainable use of biological diversity of the handling, introduction, transfer, release into the environment or marketing of living modified organisms, taking into account the risks to human health, should not serve as a pretext for not adopting the measures necessary to ensure a high level of protection for biodiversity, taking also into account the risks to human health.

j) "Labelling" means the required indications that used to identify, describe and provide information on living modified organisms and the products that contain them and that accompany the container or recipient where they are found.

k) "Living modified organism" means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology.

l) "Living organism" means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids.

m) "Modern biotechnology" means the application of:
a. In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or

b. The fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selecting.

n) "Transboundary movement" means the movement of a living modified organism from one Party to another Party, without prejudice to provisions on unintentional movements.

o) "Transit" means the movement of a living modified organism that must be carried out within the jurisdiction of a Party whose final import destination is constituted by an area within the jurisdiction of another Party or a non-Party State.

Article 4
Scope

This Agreement shall apply to the transboundary movement, transit, handling and use of all living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health. This includes organisms for agricultural, livestock, industrial and other uses.

Article 5
Pharmaceuticals

In conformity with Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to adopting decisions on import, the Agreement shall not apply to the transboundary movement of living modified organisms that are pharmaceuticals for humans and are addressed by other relevant international agreements or organizations.

Article 6
Transit and Contained Use

1. In conformity with Article 4 on the scope of the Agreement and without prejudice to the national legislation of any Party making provisions to the contrary, the advance informed agreement procedure or a simplified agreement shall apply to living modified organisms in transit. The Parties shall notify the Secretariat of the Agreement on whether or not their national regulations apply to transit and if simplified procedures are applied.

2. In conformity with Article 4 on the scope of the Agreement, except when the legislation of any Party makes provision to the contrary, the provisions of this Agreement with respect to the advance informed agreement procedure shall apply to the transboundary movement of living modified organisms destined for contained use undertaken in accordance with the standards of the Party of import. The Parties shall notify the Secretariat of the Agreement on whether or not their national regulations apply to transit and if simplified procedures are applied.

CHAPTER II
APPLICATION OF THE ADVANCE INFORMED AGREEMENT PROCEDURE AND OTHER PROCEDURES

Article 7
Application of the Advance Informed Agreement Procedure

1. Without prejudice to the provisions in Articles 5 (pharmaceuticals) and 6 (transit and contained use), the advance informed agreement procedure in Articles 8 to 11, shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. Each Party, in conformity with its national provisions, may apply the provisions in this Article to living modified organisms intended for direct use as food or feed, or for processing, especially when they consist of crops for which a Party is a centre of origin and diversity or when, for any other reason, they pose special risks to the environment and human health of that Party. The Parties may establish in their national regulations that simplified or other procedures shall apply to such living modified organisms, as long as an adequate level of safety for biological diversity is guaranteed, taking into account risks to human health.

3. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision adopted by the Parties to this Agreement in which they declare that it is unlikely that they have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 8
Notification

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for this accuracy of information provided by the exporter.

Article 9
Acknowledgement of Receipt of Notification

1. The Party of import shall acknowledge receipt of the notification , in writing, to the notifier within 90 days of its receipt.
2. The acknowledgement shall state:

a) The date of receipt of the notification;

b) Whether the notification, *prima facie*, contains the information referred to in Article 8.

3. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.

Article 10
Decision Procedure

1. Decisions taken by the party of import shall be in accordance with Article 15 on risk assessment.

2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:

a) Only after the Party of import has given its written consent; or

b) After no less than 90 days without a subsequent written consent.

3. Within 270 days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Secretariat, the decision referred to in paragraph 2 (a) in this Article:

a) Approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;

b) Prohibiting the import;

c) Requesting additional relevant information in accordance with its domestic regulatory framework on Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or

d) Informing the notifier that the period specified in this paragraph is extended by a defined period of time.

4. Except in a case in which consent is unconditional, a decision under paragraph 3 in this Article shall set out the reasons on which it is based.

5. A failure by the Party of import to communicate its decision within 270 days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.

6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the living modified organism in question as referred to in paragraph 3 of this Article, in order to avoid or minimize such potential adverse effects.

Article 11
Review of Decisions

1. A Party of import may, at any time, in the light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within 30 days, inform any notifier that has previously notified movements of the living modified organisms referred to in such decision, as well as the Secretariat, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

b) Additional relevant scientific or technical information has become available.

3. The Party of import shall respond in writing to such a request within 90 days and set out the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

Article 12
Simplified Procedure

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the objective of this Agreement, determine:

a) Cases in which intentional transboundry movement to it may take place at the same time as the movement is notified to the Party of import; and

b) Imports of living modified organisms to it to be exempted from the advance informed agreement procedure.

The Party shall communicate the application of the simplified procedure to the Secretariat.

2. The information relating to an intentional

transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) in this Article shall be the information specified in Annex I.

Article 13
Application of the Present Provisions to Imports from Third States

1. The Parties, as importers, shall apply the present provisions on advance informed agreement, as pertinent, in relation to third parties from which they receive living modified organisms.

2. The Parties, when adopting any decision regarding the transit, contained use, handling, transfer, release into the environment and trade of living modified organisms, shall take into account the possible risks to and effects on the biological diversity of the other Parties and especially shared biological diversity.

3. The Parties shall adopt, in so far as possible, common administrative policies and procedures, and shall communicate them to third States, taking into account the efforts of existing organizations and legal instruments.

Article 14
Bilateral, Regional and Multilateral Arrangements

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, consistent with the objective of this Agreement and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by this Agreement.

2. The Parties shall inform each other, through the Secretariat, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Agreement.

3. The provisions of this Agreement shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the Parties to those agreements or arrangements.

CHAPTER III
RISK ASSESSMENT, RISK MANAGEMENT AND OTHER RELEVANT PROVISIONS

Article 15
Risk Assessment

1. Risk assessment undertaken pursuant to this Agreement shall be carried out in a scientifically sound manner, in accordance with Annex II and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

Article 16
Risk Management

1. The Parties shall establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Agreement associated with the contained use, transit, use, handling, marketing and transboundary movement of living modified organisms.

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take timely measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring a risk assessment to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 in this Article, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. The Parties shall cooperate with a view to:

a) Identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

b) Taking appropriate measures regarding the treatment of such living modified organisms or specific traits.

Article 17
Unintentional Transboundary Movements and Emergency Measures

1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Secretariat and, where appropriate, relevant

international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.

2. Each Party shall, no later than the date of entry into force of this Agreement for it, make available to the Secretariat the relevant details setting out its point of contact for the purposes of receiving notifications under this Article.

3. Any notification arising from paragraph 1 of this Article should include:

a) Available relevant information on the estimated quantities and relevant characteristics and/or traits of the living modified organism;

b) Information on the circumstances and estimated date of the release, and on the use of the living modified organism in the originating Party;

c) Any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;

d) Any other relevant information; and

e) A point of contact for further information.

4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 of this Article occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.

Article 18
Handling, Transport, Packaging and Identification

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take the necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Agreement are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. In accordance with their national legislation, the Parties shall require that any living modified organism or products that contain them are clearly identified and labelled to ensure that the final consumer, whoever it may be, is duly informed. The Parties shall establish the requirements for identification and labelling, taking into account the relevant work of international organizations and instruments and their other obligations under international law.

3. Each Party shall take measures to require that documentation accompanying:

a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information;

b) Living modified organisms that are destined for contained use clearly identifies them as living modified organisms, and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

c) Living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Agreement, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Agreement applicable to the exporter.

4. The Parties shall examine efforts related to practices in the identification, handling, packaging and transport carried out in other pertinent forums and international organizations.

Article 19
Competent National Authorities and National Focal Points

1. Each Party shall designate one national focal point to be responsible on its behalf for liaison with the Secretariat. Each Party shall also designate one or more competent national authorities, which shall be responsible for performing the administrative functions required by the Agreement and which shall be authorized to act on its behalf with respect to those functions. A Party may designate a single entity to fulfil the functions of both focal point and competent national authority.

2. Each Party shall, no later than the date of entry into force of this Agreement for it, notify the Secretariat of the names and addresses of its focal point and its competent national authority or authorities. Where a party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for which type of living modified organism. Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the name and address or responsibilities of its competent national authority or authorities.

3. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 2 of this Article.

Article 20
Information Sharing

The Parties, through appropriate regional and multilateral institutions, shall cooperate in the exchange of information, and especially that related to scientific, technical, environmental and legal experience in relation to living modified organisms; existing national laws, regulations and guidelines for the application of the Agreement, as well as the information required by the Parties for the advance informed agreement procedure; bilateral, regional and multilateral agreements; summaries of their risk assessments or environmental reviews of living modified organisms that have been conducted as a result of their regulatory processes, including, where appropriate, relevant information on products derived from living modified organisms, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology; their final decisions regarding the importation or release of living modified organisms; and the reports they have submitted as a result, including reports on the implementation of the advance informed agreement procedure.

Article 21
Confidential Information

1. The Party of import shall permit the notifier to identify information submitted under the procedures of this Agreement or required by the Party of import as part of the advance informed agreement procedure of the Agreement that is to be treated as confidential. Justification shall be given in such cases upon request.

2. The Party of import shall consult the notifier if it decides that information identified by the notifier as confidential does not qualify for such treatment and shall, prior to any disclosure, inform the notifier of its decision, providing reasons on request, as well as an opportunity for consultation and for an internal review of the decision prior to disclosure.

3. Each Party shall protect confidential information received under this Agreement, including any confidential information received in the context of the advance informed agreement procedure of the Agreement. Each Party shall ensure that it has procedures to protect such information and shall protect the confidentiality of such information in a manner no less favourably than its treatment of confidential information in connection with domestically produced living modified organisms.

4. The Party of import shall not use such information for a commercial purpose, except with the written consent of the notifier.

5. If a notifier withdraws or has withdrawn a notification, the Party of import shall respect the confidentiality of commercial and industrial information, including research and development information, as well information on which the Party and the notifier disagree as to its confidentiality.

6. Without prejudice to paragraph 5 in this Article, the following information shall not be considered confidential:

a) The name and address of the notifier;

b) A general description of the living modified organism or organisms;

c) A summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health;

d) Any methods and plans for emergency response; and

e) Any other information the Party cannot consider confidential for reasons of public interest.

Article 22
Capacity-Building

The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety and shall request relevant international or bilateral cooperation to create or strengthen such capacities.

Article 23
Public Awareness and Participation

1. The Parties shall:

a) Promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and

sustainable use of biological diversity, taking also into account risks to human health. In doing so, the Parties shall cooperate, as appropriate, with other States and international bodies;

b) Endeavor to ensure that public awareness and education encompass access to information on living modified organisms identified in accordance with the Agreement that may be imported.

2. The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.

3. Each Party shall ensure that its population knows how to gain access to the different bodies in charge of maintaining, updating and disseminating information on living modified organisms.

Article 24
Non-Parties

Transboundary movements of living modified organisms between Parties and non-Parties shall be consistent with the objective of this Agreement. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.

Article 25
Illegal Transboundary Movements

1. Each Party shall adopt appropriate domestic measures aimed at preventing the transboundary movements of living modified organisms carried out in contravention of its domestic measures that regulate the implementation of this Agreement. Such movements shall be deemed illegal transboundary movements. The Parties, in accordance with their bodies of laws, shall give consideration to classifying the related conduct as a criminal offense and, if appropriate, penalizing illegal transboundary movements.

2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the living modified organism in question by repatriation or destruction, as appropriate, without prejudice to the regulations on liability in Article 27.

3. Each Party shall make available to the Secretariat and any other relevant forum or body information concerning cases of illegal transboundary movements pertaining to it.

Article 26
Socio-Economic Considerations

The Parties, in reaching a decision on import under domestic measures governing the implementation of this Agreement, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

Article 27
Liability and Redress

1. Any natural or legal person that carries out any type of activities in relation to living modified organisms covered by this Agreement shall be liable for any damage and harm caused directly or indirectly to the biological diversity or to human health by the activities related to the use, handling, transit, transfer and marketing of such organisms. The Parties shall give consideration to establishing a system of liability for created risk in cases of living modified organisms.

2. The notifier or requestor, the person in whose interest the activity causing the damage or harm is being carried out, the producer, the carrier, the provider, the supplier or the marketer of the organisms shall be liable.

3. The liability for damage or harm indicated herein shall be joint and several, without prejudice to domestic rules on the distribution of liability.

4. In the case of damage or harm to the environment, redress shall include all appropriate and relevant measures to rehabilitate and, in so far as possible, restore the affected environment to its original state.

5. Each Party shall ensure that it has or, if not, that it will establish expeditious legal procedures to enable affected parties to file legal actions. Each Party, in accordance with its body of laws, shall grant affected parties the broadest possible legitimacy for filing such actions.

6. Each Party shall establish appropriate statutes of limitations, taking into account the time reasonably required to determine the impacts of the organisms on the environment and health.

7. Each Party shall give consideration to creating a redress fund, financed through fees or other mechanisms for charging the notifiers, requestors, producers, suppliers, providers or marketers of living modified organisms.

8. The Parties shall establish legal provisions stipulating that governmental authorization to carry out the activities shall not be considered a defence or attenuating circumstance.

CHAPTER IV
INSTITUTIONAL PROVISIONS

Article 28
Relationship with other International Agreements

Any dispute with another international instrument arising from the implementation of this Agreement shall be settled through the application of the rules and principles of international law.

Article 29
Secretariat

1. The Parties to this Agreement agree to entrust the Executive Secretariat of the Central American Commission on Environment and Development, CCAD, with serving as Secretariat for the implementation of this Agreement.

2. The CCAD, to the extent of its possibilities and with relevant international cooperation, shall establish the appropriate channels to receive and distribute information related to the living modified organisms referred to in this Agreement.

3. The Secretariat shall be in charge of necessary efforts for effective and efficient compliance with the obligations established in this Agreement and shall serve as technical support for the Working Group established in the following article.

Article 30
Meetings of the Parties

1. The Parties to this Agreement may hold meetings with the periodicity they determine to examine the application of this international instrument and to adopt the necessary decisions to promote its effective implementation and fulfilment.

2. The first meeting of the Parties shall be held within 180 days following the entry into force of this Agreement and, for that purpose, the CCAD is given the mandate to prepare the meeting, including the provisional agenda.

Article 31
Working Group

1. The Parties agree to establish a Working Group on the Safety of Modern Biotechnology. The Working Group shall be formed by a representative of each the competent national authorities or the focal points. The Group shall designate a Coordinator and shall have the support staff provided by the Secretariat, in accordance with its financial possibilities. Each representative shall have the right to one vote in case it is necessary to arrive at a decision and it has not been possible through consensus.

2. The Working Group shall coordinate its efforts with appropriate regional, national and multilateral bodies, whether or not they are governmental, to fulfil the objectives of this Agreement and carry out the functions entrusted to it.

3. The functions of the Working Group shall be:

a) To facilitate cooperation activities among the competent national authorities related to the safety of modern biotechnology.

b) To promote coordination, standardization and harmonization initiatives for the implementation of this Agreement and, in general, for safety in modern biotechnology, including the approach of legal frameworks and the formulation of policies.

c) To assist in the search for information and in the environmental, economic and legal research necessary to fulfil the objectives of this Agreement.

d) To compile, process and disseminate information on the use, transit, handling, transfer and marketing of living modified organisms.

e) To organize seminars, workshops and training courses for the enforcement of domestic regulations on biosafety, and seek training opportunities outside Central America.

f) To promote national and regional meetings of the competent authorities, other authorities and civil society to address the issue of biosafety.

g) To coordinate regional positions to be presented at different international forums related biosafety.

h) To strengthen and expedite communication channels among competent national authorities.

i) To report to the Secretariat on the state of fulfilment of the Agreement, the review of reports, suggestions for reforms and, in general, any necessary and timely information to fulfil the objectives of this Agreement.

j) Establish *ad hoc* technical commissions to conduct analyses and make recommendations on specific points.

k) Establish its rules of procedure and its plan of action.

Article 32
Financing

The CCAD shall take steps to obtain new and additional financial resources for appropriate and timely funding of the efforts of the Working Group and for fulfilment of the objectives and the development of activities initiated under this Agreement. To that end, it shall make use of bilateral, regional and multilateral cooperation channels.

Article 33
Monitoring and Reporting

Each Party shall monitor the implementation of its obligations under this Agreement and shall report to the Secretariat, with the periodicity determined by the Secretariat, on the measures adopted to implement this Agreement.

Article 34
Assessment and Review

The Parties shall assess the effectiveness of this Agreement five years following its entry into force and from then on with the periodicity they decide on, including an assessment of its procedures and annexes.

Article 35
Settlement of Disputes

The Parties to this Agreement shall settle in good faith any differences arising in the implementation and interpretation of this Agreement. Initially negotiation and consultation shall be used and, if a satisfactory settlement is not reached, they shall resort to other dispute settlement mechanisms accepted by the Parties.

Article 36
Right to Vote

At any meetings or conferences of the Parties, each Party shall have the right to one vote.

Article 37
Entry Into Force

This Agreement shall enter into force 90 days after the date of deposit of the third instrument of ratification, approval or acceptance and, for the remaining Parties, on the date of deposit of their respective instruments.

Article 38
Ratification, Acceptance or Approval

This Agreement shall be approved or ratified by the member States of SICA, in accordance with their respective constitutional procedures. The instruments of ratification or approval shall be deposited in the General Secretariat of SICA.

Article 39
Reservations

No general or specific reservations may be made to this Agreement.

Article 40
Withdrawal

Any Party may withdraw from this Agreement one year following its adoption. The withdrawal shall go into effect for the withdrawing Party six months after the withdrawal notification is deposited.

DONE on June 2001 in San Salvador, El Salvador.

ANNEX I
INFORMATION REQUIRED IN NOTIFICATIONS

a) Name, address and contact details of the exporter.

b) Name, address and contact details of the importer.

c) Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export.

d) Intended date or dates of the transboundary movement, if known.

e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.

f) Centres of origin and centres genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.

g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.

h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism.

i) Intended use of the living modified organism or products thereof, for example, processed materials that are of living modified organism origin, containing novel combinations of replicable genetic material obtained through the use of modern biotechnology.

j) Quantity or volume of the living modified organism to be transferred.

k) A previous and existing risk assessment report consistent with Annex II.

l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.

m) Regulatory status of the living modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban.

n) Result and purpose of any notification by the exporter to other States regarding the living modified organism to be transferred.

o) A declaration that the above-mentioned information is factually correct.

ANNEX II
RISK ASSESSMENT

Objective

1. The objective of risk assessment, under this Agreement, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely receiving environment, taking also into account risks to human health.

Use of risk assessment

2. Risk assessment is, *inter alia*, used by competent authorities to make informed decisions regarding living modified organisms.

General principles

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and should take into account expert advice of, and guidelines developed by, relevant international organizations.

4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk.

5. Risks associated with living modified organisms or products thereof, for example, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely receiving environment.

6. Risk assessment should be carried out on a case-by-case basis. The required information may vary in nature and level of detail from case to case, depending on the living modified organism concerned, its intended use and the likely receiving environment.

Methodology

7. The process of risk assessment may, on the one hand, give rise to a need for further information about specific subjects, which may be identified and requested during the assessment process, while on the other hand, information on other subjects may not be relevant in some instances.

8. To fulfil its objective, risk assessment entails, as appropriate, the following steps:

a) An identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely receiving environment, taking also into account risks to human health;

b) An evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely receiving environment to the living modified organism;

c) An evaluation of the consequences should these adverse effects be realized;

d) An estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;

e) A recommendation as to whether or not the risks are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and

f) Where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

Points to consider

9. Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristics of the following subjects:

a) Recipient organism or parental organisms. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centres of origin and centres of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;

b) Donor organism or organisms. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organisms;

c) Vector. Characteristics of the vector, including its identity, if any, and its source or origin, and its host range;

d) Insert or inserts and/or characteristics of modification. Genetic characteristics of the inserted nucleic aced and the function it specifies, and/or characteristics of the modification introduced;

e) Living modified organism. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms;

f) Detection and identification of the living modified organism. Suggested detection and identification methods and their specificity, sensitivity and reliability;

g) Information relating to the intended use. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and

h) Receiving environment. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centres of origin of the likely receiving environment.

Unofficial translation

65. CENTRAL AMERICAN AGREEMENT ON ACCESS TO GENETIC AND BIOCHEMICAL RESOURCES AND TO ASSOCIATED TRADITIONAL KNOWLEDGE

PREAMBLE

CONSIDERING:

That the Central American States, in accordance with international law and especially with the Convention on Biological Diversity, signed in Rio de Janeiro on 5 June 1992, are sovereign States with the right to decide on the conservation and sustainable use of their resources, in conformity with their environmental and development policies;

That the Central American States have signed and approved or ratified the Convention for the Conservation of the Biodiversity and the Protection of Priority Wilderness Areas in Central America;

That the Central American States have a significant biological heritage that should be conserved and used in a sustainable manner;

That the Central American States have significant cultural and ethnic diversity, reflected in the existence of numerous local communities;

That the cultural diversity, including the different practices and innovations of the local communities, is closely linked to the conservation and management of the biological diversity;

That the biological diversity, as well as the knowledge, innovations and practices of the local communities associated with these resources, are of strategic value in the international context;

That the use of these resources or knowledge should be carried out in such a way that the derived benefits will be shared fairly and equitably;

That it is essential to create and strengthen national capacities to use the biological diversity in a sustainable manner and facilitate conservation on the part of the local communities, which have a close and indissoluble relationship with these resources;

That it is necessary to strengthen regional cooperation in scientific, technical and cultural matters, as well as in the harmonious development and integration of the Central American States;

That the genetic and biochemical resources and the associated knowledge, innovations and practices are factors of great importance to the economic development of the States.

HAVE DECIDED TO SIGN THE FOLLOWING:

CENTRAL AMERICAN AGREEMENT ON ACCESS TO GENETIC AND BIOCHEMICAL RESOURCES AND TO ASSOCIATED TRADITIONAL KNOWLEDGE

CHAPTER I
OBJECTIVES, DEFINITIONS AND GENERAL PRINCIPLES

Article 1
Objectives

The objective of this Agreement is to regulate access to the genetic and biochemical resources and to the associated knowledge, innovations and practices existing in any of the member States, so as to:

a) Ensure conditions for fair and equitable sharing of the benefits derived from the access to genetic and biochemical resources and to the knowledge, innovations and practices in the local communities;

b) Ensure the conservation of biological diversity and the sustainable use of its components as a mechanism for maintaining and improving the quality of life of their inhabitants;

c) Ensure the creation and development of scientific, technical and technological capacities at the local, national and regional levels on the use of their genetic and biochemical resources and the associated traditional knowledge;

d) Establish an appropriate system of access to the resources and knowledge described above, based on prior informed consent and mutually agreed terms that will promote the fair and equitable distribution of benefits;

e) Strengthen the negotiating capacity of the member States at forums related to the theme of benefit access and distribution;

f) Recognize, compensate and protect local communities in relation to their knowledge, innovations and practices for the conservation and sustainable use of biological diversity; and

g) Provide appropriate institutional mechanisms to implement and fulfil this Agreement.

Article 2
Definitions

The terms contained in this Agreement shall be interpreted in conformity with those established in the

Convention on Biological Diversity. This Agreement shall also be interpreted in conformity with the following terms:

Access to Genetic and Biochemical Resources Authorization granted by the competent national authority to obtain samples of the elements of wild, native or domesticated biological diversity existing in *ex situ* or *in situ* conditions and of associated traditional knowledge for purposes of basic research, conservation, bioprospecting or commercial use.

Competent National Authority: The authority designated by each member State to authorize access, sign and monitor access contracts, and ensure appropriate technological and scientific transfer and the fair and equitable distribution of the derived benefits, in conformity with the terms in this Agreement.

Material Transfer Agreement: An agreement signed between *ex situ* conservation centres or other entities that maintain resources in *ex situ* conditions for the transfer of genetic material, following explicit authorization by the competent national authority.

Biopiracy: Extraction and/or use of biological material to gain access to the genetic or biochemical resources it contains without having obtaining the authorization granted by the competent authority for such access.

Bioprospecting The systematic search for, classification of and research on new sources of chemical compounds, genes, proteins and other products of real or potential economic value found in the elements of biological diversity.

Local Communities: Peasant-farmer, Afro-American and indigenous communities.

Knowledge: A product derived from intellectual activities and generated in a traditional manner or using the scientific method.

Traditional Knowledge: All individual or collective knowledge, innovations and practices of real or potential value that are associated with biological resources, whether or not they are protected by intellectual property systems.

Prior Informed Consent: The act through which the State, if applicable, the private owners or local communities, as applicable, after all the required information has been provided and the related procedures have been fulfilled, agree to allow access to their resources or to the associated traditional knowledge, under mutually agreed conditions.

Access Contract: Meeting of minds between the State and a private party, which authorizes basic research or bioprospecting and establishes the terms and conditions for obtaining or marketing genetic or biochemical resources and associated traditional knowledge, as a result of the granting of access authorization.

Building of National or Institutional Capacities that will Generate Added Value: Acquisition, development and strengthening of scientific, technical and technological skills and possibilities for the conservation and sustainable use of biodiversity that will enable gradual progress to be made in research and development of value-added products and processes.

Innovation: Any knowledge that adds a use or improved value to the technology, properties, values and processes of any biological resources.

Access Authorization: Authorization granted by the State to carry out basic research and bioprospecting to obtain or market genetic or biochemical resources and associated traditional knowledge to domestic or foreign persons or institutions, requested through a procedure regulated in this Agreement and in national laws.

Precautionary Principle: Adoption by the States, in accordance with their capacities, of effective measures to prevent environmental degradation in cases where there is danger of serious or irreversible danger.

Resource Supplier: Natural or legal person who holds the rights to the organic, genetic or biochemical resources, the property on which these are located, or the associated traditional knowledge and the capacity to authorize access to them, after the related legal procedures have been fulfilled.

Biochemical Resource: Any material derived from plants, animals, fungi or microorganisms that contain specific characteristics, special molecules or indications for the design of such molecules.

Article 3
Scope of Application

The procedures and other provisions on access established in this Agreement shall be applied to the genetic and biochemical resources owned by the member States and to the species, regardless of their origin, found in their territories as a result of natural causes, as well as the associated knowledge, innovations and traditional practices. They apply to the resources indicated above, regardless of whether they are in *ex situ* or *in situ* conditions and are wild or domesticated. However, the States may establish differentiated mechanisms for access to *ex situ* collections.

Article 4
Exclusions

This Agreement's sphere of application excludes:

a) Human genetic resources and their derived products;

b) The exchange of genetic and biochemical resources and derived products or of knowledge, innovations and practices that are associated with them and carried out by local communities, in conformity with their own practices agreed to by consensus;

c) Biological resource access and use distinct from their utilization as a source of genetic and biochemical resources; and

d) Any other exclusion that the member States deem appropriate, in accordance with their national legislation.

Article 5
National Sovereignty

The member States of this Agreement, in accordance with national and international law, have sovereignty over their genetic and biochemical resources; consequently, they have the power to determine the conditions for access to these resources and fair and equitable distribution of the benefits, as well as the obligation to ensure that the activities carried out within their jurisdiction or under their control do not harm the other States.

Article 6
Resource Rights

It is the obligation of each State, in conformity with its legislation and policies, to define the rights held by natural or legal persons over these resources or over the biological resources that the genetic and biochemical resources contain, and, consequently, the role of such rights in the access procedures.

Article 7
Traditional Knowledge Recognition and Compensation

The member States shall recognize and protect, through the competent authority, if applicable, the knowledge, innovations and practices of the local communities useful for the conservation, management and sustainable use of the components of biological diversity; consequently, they shall protect their power to adopt decisions on their knowledge, innovations and practices.

Article 8
Creation of National Capacities

The member States shall establish appropriate programmes for the creation and development of national capacities to incorporate added value in their genetic and biochemical resources and the associated traditional knowledge.

Article 9
Application of the Precautionary Principle

The member States shall take into account the precautionary principle in access procedures, in conformity with applicable law.

Article 10
Compliance with International Trade Regulations

Without prejudice to compliance with the provisions regarding international trade in endangered species of wild fauna and flora, the enforcement of health and plant health measures, and technical and biosafety regulations, among others, the provisions in this Agreement must not be an unnecessary obstacle or disguised restriction to trade.

Article 11
National Biodiversity Planning

Each member State, within its biodiversity plans, policies, programmes and strategies, shall give consideration to the access to genetic and biochemical resources and the associated traditional knowledge and to the need for fair and equitable distribution of the benefits.

CHAPTER II
ACCESS PROCEDURE

Article 12
Access Procedure

In accordance with its national legislation, each member State shall determine the type of instrument and procedure to be followed to authorize access and grant its prior informed consent. However, the present guidelines should be taken into account at the time when internal procedures are adopted. The access procedures should, in any case, be clear, transparent, expeditious and substantiated and should include the possibility of appropriately appealing decisions and allow the participation of all stakeholders.

Article 13
Procedure for Prior Informed Consent

Access to genetic and biochemical resources shall be subject to the prior informed consent of the natural or legal persons holding the rights. In any case, prior informed consent shall be countersigned by the State.

Article 14
Initiation of the Procedure

The access procedure shall begin with the submission of an application by the interested party, who may be a national or foreign natural or legal person, according to the procedure in each member State, in conformity with the present Agreement. Prior to authorization, any access shall be considered illegal and shall be sanctioned in conformity with the national laws of each State.

Article 15
Designation of the Competent National Authority

Each member State shall designate a competent national authority to receive, process, rule on and monitor all access applications, regardless of the type of resource or its location.

Article 16
Application Requirements

When preparing the internal application procedure, the member States shall ask the interested parties to fulfil, at least, the following requirements:

a) Identification of the applicant, documents that justify its legal capacity and a copy of the related research project;

b) Detailed and specific information on the resources or knowledge on which access is being applied for, including their present and future uses and any risks that may stem from the access;

c) Presentation and approval of the environmental impact study, when the internal legislation of the member State calls for it;

d) Purposes of the access, including the types of commercial uses expected from the access requested;

e) Mechanisms proposed for the distribution of benefits, including technology transfer and other forms of sharing benefits with the appropriate State sectors;

f) The existence of a national counterpart in the research, when applicable in the member States;

g) The precise site where access will take place and the methods to be used. In the case of access to resources in *ex situ* conditions, information on the institution where the resources are kept;

h) An indication of the potential use of the resources and of their subsequent uses, as well as the terms for transferring this material to third parties;

i) An indication of the economic, social, cultural, scientific and spiritual benefits that will be derived for the State and the sectors involved in the access;

j) A description of knowledge, innovations and practices of the local communities, when applicable;

k) Identification of the suppliers of the genetic and biochemical resources and associated knowledge, and the terms of the prior informed consent obtained from them and of the agreed distribution of benefits;

l) Any other pertinent information that the competent authority may request.

Article 17
Access Restrictions

The competent authority may impose partial or total restrictions on the access to resources to ensure their conservation and sustainable use and, for that purpose, may prohibit access, make it contingent on other factors, restrict it, set limits or regulate collection methods, among other actions. Application of the precautionary principle shall be obligatory for the competent authority to grant access.

To establish partial or total restriction, consideration shall be given to the following factors:

a) The state of conservation of the species or varieties;

b) Endemism or rarity ratios;

c) Conditions of vulnerability or fragility in the ecosystems' structure or function;

d) Adverse effects on human health, species and ecosystems or on essential elements of the cultural autonomy or identity of the local communities; and

e) Genetic resources or geographical areas classified as strategic.

In any case, access to resources and knowledge for military purposes is prohibited.

Article 18
Administrative Fees

The competent authority in each of the member States may collect fees and other reasonable charges derived from processing the access requests.

Article 19
Contract Terms

Without prejudice to the decision being adopted in each concrete case and taking into consideration the differences between the purposes of research and access, the member States shall ensure that the access contracts include, at least, the following provisions:

a) Limits on the samples the applicant can obtain;

b) Participation of national citizens in the research;

c) Mechanisms to transfer technology, knowledge and skills, including biotechnology, that are environmentally sound and safe;

d) Provision of information on background, state of the science or other data that will contribute to improving knowledge on the resources and products;

e) Deposit of duplicates of the material collected in national institutions authorized by the competent authority;

f) Acknowledgement in any publication of the country's contribution to the research on the resource;

g) Reports on the results of the research carried out and their usefulness to the State;

h) Terms for the transfer of products and by-products of the material to third parties;

i) Strengthening of the national and local institutional capacity associated with the conservation and sustainable use of the biodiversity components and associated traditional knowledge;

j) A percentage of the net earnings on marketable products or processes derived from the access;

k) Presentation of periodical reports on the marketable uses detected, without prejudice to the intellectual property rights on such uses;

l) The commitment to fulfil environmental regulations, including the rules on biosafety, bioethics and respect for the customs of the local communities, when pertinent; and

m) Causes for termination of the agreement. In any case, the competent authority may consider the agreement terminated, when the cause is lack of compliance with the conditions under which the access has been granted.

The access conditions must establish terms for technology transfer and the fair and equitable distribution of benefits for the State, including the local communities, the scientific sector and the private sector, in each case.

Article 20
Consideration of the Interests of the Other Member States

When, in the negotiation of terms in the contracts for access to resources or associated knowledge, another member State appears also to be a supplier, the competent national authority shall request its opinion. This opinion must be expressed in a period of not more than 30 days as of the notification and may be accompanied by any technical considerations and information it may consider pertinent. In the procedure, the competent national authority shall give consideration to the opinions expressed.

Article 21
Certificate of Origin

The competent authority shall issue a certificate of origin that establishes the legality of access to the resource and knowledge.

Article 22
Public Information and Confidentiality

The public shall have free access to the information contained in the access applications and contracts. However, each competent authority shall protect the confidential information that the applicant submits, following justification of its confidential nature, in conformity with the legislation of each member State.

Article 23
Access Registration

The competent authority shall keep a registry of access applications and contracts.

Article 24
Framework Agreements

The competent authority may sign framework access agreements for research or teaching with universities or research centres that will cover the implementation of several projects in order to facilitate access to resources and knowledge.

Article 25
Regulation of Material Transfer Agreements

For *ex situ* conservation centres or other entities that keep resources in *ex situ* conditions to be able to enter into material transfer agreements with other similar institutions, they must have the express authorization of the competent national authority.

Article 26
Product and Process Registration and Approval

Intellectual property registries and competent authorities, as pertinent, following registration of products and processes that may involve the use of resources and knowledge, shall require a certificate of origin that ensures the legality of the access. Lack of compliance with this requirement or violation of the laws on access or of the conditions in the access contracts shall prevent the granting of any approval or registration to the applicant.

Article 27
Sanctions

The member States shall create the necessary juridical mechanisms to prevent the biopiracy of genetic and biochemical resources and associated knowledge and to apply the related administrative, civil and penal sanctions.

CHAPTER III
PROTECTION OF THE KNOWLEDGE, INNOVATIONS AND INDIVIDUAL PRACTICES OF LOCAL COMMUNITIES

Article 28
Conservation of the Knowledge, Innovations and Practices of Local Communities

Each member State recognizes the existence and validity of different forms of knowledge and innovations and the need to protect them through the use of legal mechanisms appropriate to each specific case.

Article 29
Individual and Collective Property Rights

Each member State recognizes the rights of the communities over their knowledge, innovations and practices and, consequently, the power to decide about them.

Article 30
Objectives

The member States must ensure that the intellectual property rights, especially patents, contribute to the objectives of conservation, sustainable use and fair and equitable distribution of the benefits derived from the use of the resources and knowledge contained in the present Agreement, the Convention on Biological Diversity and the Convention for the Conservation of the Biodiversity and the Protection of the Priority Wilderness Areas in Central America.

Article 31
Prior Informed Consent

The knowledge, practices and innovations of the local communities may not be used without the prior informed consent of whoever has the right to grant it.

Article 32
Consultation Process

Immediately after this Agreement enters into force, the member States shall initiate a participatory process with the local communities on the scope and requirements of a system of rights to be established.

Article 33
Elements to be considered

Elements to be considered in the participatory process include:

a) Identification of the requirements and procedures necessary to obtain recognition of a *sui generis* right and the holding of it;

b) Consideration of a system to register *sui generis* rights, in conformity with the cultural practices of the interested parties;

c) Obligations and rights conferred by the registration; and

d) Identification of reasons for nullifying or cancelling the registration of a right and the reasons for nullify or cancelling the rights granted on knowledge, innovations and practices.

Article 34
Existence of Knowledge

In any case, the *sui generis* right exists and is recognized by the mere existence of the practice, knowledge or innovation, without requiring a prior declaration or official registration. This recognition implies the impossibility of intellectual property rights being granted on such knowledge, innovations and practices. Each member State shall establish mechanisms to ensure compliance with the provisions in this article.

Article 35
Right of Cultural Objection

Recognition is hereby given to the right of local communities to present cultural objections to the granting of access to resources and knowledge for reasons of a cultural, spiritual, social, economic or any other nature. The competent authority shall give consideration to the objection when ruling on what is admissible.

CHAPTER IV
REGIONAL COOPERATION AND INSTITUTIONAL MECHANISMS

Article 36
Regional Cooperation

The member States shall cooperate in achieving the objectives proposed herein.

Article 37
Communication on the Adoption of Regulations

The member States, through the competent authority or existing regional channels, shall immediately provide notification of the adoption of any regulations related to the provisions in this Agreement.

Article 38
Powers of the Competent Authorities

Each competent national authority shall be invested with the appropriate authority and powers to issue administrative decisions necessary to fulfil this Agreement, to process the access applications and carry out with the established procedures, and to sign access contracts or agreements.

Article 39
Central American Group on Access

The Central American Working Group on Access to Genetic and Biochemical Resources and Associated Traditional Knowledge is hereby established and shall be formed by representatives of the competent national authorities of each member State. This Group shall have the support of regional or multilateral bodies and its functions shall include the following activities:

a) Issue, at the regional level, appropriate recommendations to fulfil this Agreement;

b) Issue recommendations when requested by any of the member States;

c) Promote joint activities to strengthen the capacities of the member States in the field of research, access and technology transfer related to the resources and knowledge;

d) Recommend appropriate measures to develop national and institutional capacities to provide added value to the use of resources and knowledge;

e) Propose common documentation models for the access procedures;

f) Facilitate the exchange of information and experiences on the market conditions of resources and associated knowledge;

g) Facilitate the exchange of information on access and contract negotiation policies;

h) Facilitate the capacity-building of member States in the field of access and contract negotiation;

i) Prepare its own rules of procedure;

j) Obtain funds for its activities through appropriate regional or multilateral sources;

k) Assess and follow up on access procedures; and

l) Any other appropriate activity to fulfil its purposes.

Article 40
Notification

Each member State shall immediately notify the other member States of all access requests and contracts, as well as the suspension and termination of the contracts.

Article 41
Supplementary Provisions

Each member State must establish provisions supplementary to this Agreement that include factors such as national financing for the activities indicated herein, the degree to which vested rights will be affected, the institutional registration systems, national capacity-building plans and any other provisions needed to implement this Agreement.

CHAPTER V
FINAL PROVISIONS

Article 42
Ratification

The present Agreement shall be submitted to the signatory States for approval or ratification, in conformity with their internal provisions.

Article 43
Depositary

The instruments of ratification of the present Agreement shall be deposited and registered in the General Secretariat of the Central American Integration System, which will notify the other signatory States of these instruments.

Article 44
Amendments

The member States may propose amendments, adjustments and modifications to the present Agreement, following the procedures provided for in Article 42.

Article 45
Reservations

Reservations to the present Agreement shall not be admitted.

Article 46
Withdrawal

Any member State may withdraw from this Agreement whenever it decides to do so. The withdrawal shall become effective for the withdrawing State 180 days following notification to the General Secretariat of the Central American Integration System, and the Agreement shall remain in force for the other States as long as at least three of them remain parties to the Agreement.

Article 47
Entry into Force

The present Agreement shall enter into force on the date on which the fourth instrument of ratification has been deposited. For each State that ratifies the Agreement after the fourth ratification instrument has been deposited, it shall enter into force on the deposit date of its corresponding instrument of ratification.

IN WITNESS WHEREOF, the present Agreement is signed in San Salvador, El Salvador, June 200166.

66. ASEAN AGREEMENT ON TRANSBOUNDARY HAZE POLLUTION

The Parties to this Agreement,

REAFFIRMING the commitment to the aims and purposes of the Association of Southeast Asian Nations (ASEAN) as set forth in the Bangkok Declaration of 8 August 1967, in particular to promote regional co-operation in Southeast Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region,

RECALLING the Kuala Lumpur Accord on Environment and Development which was adopted by the ASEAN Ministers of Environment on 19 June 1990 which calls for, inter alia, efforts leading towards the harmonisation of transboundary pollution prevention and abatement practices,

RECALLING ALSO the adoption of the 1995 ASEAN Co-operation Plan on Transboundary Pollution, which specifically addressed transboundary atmospheric pollution and called for, inter alia, establishing procedures and mechanisms for co-operation among ASEAN Member States in the prevention and mitigation of land and/or forest fires and haze,

DETERMINED to give effect to the 1997 Regional Haze Action Plan and to the Hanoi Plan of Action which call for fully implementing the 1995 ASEAN Cooperation Plan on Transboundary Pollution, with particular emphasis on the Regional Haze Action Plan by the year 2001,

RECOGNISING the existence of possible adverse effects of transboundary haze pollution,

CONCERNED that a rise in the level of emissions of air pollutants within the region as forecast may increase such adverse effects,

RECOGNISING the need to study the root causes and the implications of the transboundary haze pollution and the need to seek solutions for the problems identified,

AFFIRMING their willingness to further strengthen international co-operation to develop national policies for preventing and monitoring transboundary haze pollution,

AFFIRMING ALSO their willingness to co-ordinate national action for preventing and monitoring transboundary haze pollution through exchange of information, consultation, research and monitoring,

DESIRING to undertake individual and joint action to assess the origin, causes, nature and extent of land and/or forest fires and the resulting haze, to prevent and control the sources of such land and/or forest fires and the resulting haze by applying environmentally sound policies, practices and technologies and to strengthen national and regional capabilities and co-operation in assessment, prevention, mitigation and management of land and/or forest fires and the resulting haze,

CONVINCED that an essential means to achieve such collective action is the conclusion and effective implementation of an Agreement,

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Use of Terms

For the purposes of this Agreement:

1. "Assisting Party" means a State, international organisation, any other entity or person that offer and/or render assistance to a Requesting Party or a Receiving Party in the event of land and/or forest fires or haze pollution.

2. "Competent authorities" means one or more entities designated and authorised by each Party to act on its behalf in the implementation of this Agreement.

3. "Controlled burning" means any fire, combustion or smouldering that occurs in the open air, which is controlled by national laws, rules, regulations or guidelines and does not cause fire outbreaks and transboundary haze pollution.

4. "Fire prone areas" means areas defined by the national authorities as areas where fires are most likely to occur or have a higher tendency to occur.

5. "Focal point" means an entity designated and authorised by each Party to receive and transmit communications and data pursuant to the provisions of this Agreement.

6. "Haze pollution" means smoke resulting from land and/or forest fire which causes deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment.

7. "Land and/or forest fires" means fires such as coal seam fires, peat fires, and plantation fires.

8. "Member State" means a Member State of the Association of Southeast Asian Nations.

9. "Open burning" means any fire, combustion or smouldering that occurs in the open air.

10. "Party" means a Member State of ASEAN that has consented to be bound by this Agreement and for which the Agreement is in force.

11. "Receiving Party" means a Party that accepts assistance offered by an Assisting Party or Parties in the event of land and/or forest fires or haze pollution.

12. "Requesting Party" means a Party that requests from another Party or Parties assistance in the event of land and/or forest fires or haze pollution.

13. "Transboundary haze pollution" means haze pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one Member State and which is transported into the area under the jurisdiction of another Member State.

14. "Zero burning policy" means a policy that prohibits open burning but may allow some forms of controlled burning.

Article 2
Objective

The objective of this Agreement is to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, through concerted national efforts and intensified regional and international co-operation. This should be pursued in the overall context of sustainable development and in accordance with the provisions of this Agreement.

Article 3
Principles

The Parties shall be guided by the following principles in the implementation of this Agreement:

1. The Parties have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment and harm to human health of other States or of areas beyond the limits of national jurisdiction.

2. The Parties shall, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen co-operation and co-ordination to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated.

3. The Parties should take precautionary measures to anticipate, prevent and monitor tranboundary haze pollution as a result of land and/or forest fires which should be mitigated, to minimise its adverse effects. Where there are threats of serious or irreversible damage from transboundary haze pollution, even without full scientific certainty, precautionary measures shall be taken by Parties concerned.

4. The Parties should manage and use their natural resources, including forest and land resources, in an ecologically sound and sustainable manner.

5. The Parties, in addressing transboundary haze pollution, should involve, as appropriate, all stakeholders, including local communities, non-governmental organisations, farmers and private enterprises.

Article 4
General Obligations

In pursuing the objective of this Agreement, the Parties shall:

1. Co-operate in developing and implementing measures to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, and to control sources of fires, including by the identification of fires, development of monitoring, assessment and early warning systems, exchange of information and technology, and the provision of mutual assistance.

2. When the transboundary haze pollution originates from within their territories, respond promptly to a request for relevant information or consultations sought by a State or States that are or may be affected by such transboundary haze pollution, with a view to minimising the consequences of the transboundary haze pollution.

3. Take legislative, administrative and/or other measures to implement their obligations under this Agreement.

PART II
MONITORING, ASSESSMENT, PREVENTION AND RESPONSE

Article 5
ASEAN Co-ordinating Centre for Transboundary Haze Pollution Control

1. The ASEAN Co-ordinating Centre for Transboundary Haze Pollution Control, hereinafter referred to as "the ASEAN Centre", is hereby established for the purposes of facilitating co-operation and co-ordination among the Parties in managing the impact of land and/or forest fires in particular haze pollution arising from such fires.

2. The ASEAN Centre shall work on the basis that the national authority will act first to put out the fires. When the national authority declares an emergency situation, it may make a request to the ASEAN Centre to provide assistance.

3. A Committee composed of representatives of the national authorities of the Parties shall oversee the operation of the ASEAN Centre.

4. The ASEAN Centre shall carry out the functions as set out in **Annex** and any other functions as directed by the Conference of the Parties.

Article 6
Competent Authorities and Focal Points

1. Each Party shall designate one or more Competent Authorities and a Focal Point that shall be authorised to act on its behalf in the performance of the administrative functions required by this Agreement.

2. Each Party shall inform other Parties and the ASEAN Centre, of its Competent Authorities and Focal Point, and of any subsequent changes in their designations.

3. The ASEAN Centre shall regularly and expeditiously provide to Parties and relevant international organisations the information referred to in paragraph 2 above.

Article 7
Monitoring

1. Each Party shall take appropriate measures to monitor:

(a) all fire prone areas,

(b) all land and/or forest fires,

(c) the environmental conditions conducive to such land and/or forest fires, and

(d) haze pollution arising from such land and/or forest fires.

2. Each Party shall designate one or more bodies to function as National Monitoring Centres, to undertake monitoring referred to in paragraph 1 above in accordance with their respective national procedures.

3. The Parties, in the event that there are fires, shall initiate immediate action to control or to put out the fires.

Article 8
Assessment

1. Each Party shall ensure that its National Monitoring Centre, at agreed regular intervals, communicates to the ASEAN Centre, directly or through its Focal Point, data obtained relating to fire prone areas, land and/or forest fires, the environmental conditions conducive to such land and/or forest fires, and haze pollution arising from such land and/or forest fires.

2. The ASEAN Centre shall receive, consolidate and analyse the data communicated by the respective National Monitoring Centres or Focal Points.

3. On the basis of analysis of the data received, the ASEAN Centre shall, where possible, provide to each Party, through its Focal Point, an assessment of risks to human health or the environment arising from land and/or forest fires and the resulting transboundary haze pollution.

Article 9
Prevention

Each Party shall undertake measures to prevent and control activities related to land and/or forest fires that may lead to transboundary haze pollution, which include:

(a) Developing and implementing legislative and other regulatory measures, as well as programmes and strategies to promote zero burning policy to deal with land and/or forest fires resulting in transboundary haze pollution;

(b) Developing other appropriate policies to curb activities that may lead to land and/or forest fires;

(c) Identifying and monitoring areas prone to occurrence of land and/or forest fires;

(d) Strengthening local fire management and firefighting capability and co-ordination to prevent the occurrence of land and/or forest fires;

(e) Promoting public education and awareness-building campaigns and strengthening community participation in fire management to prevent land and/or forest fires and haze pollution arising from such fires;

(f) Promoting and utilising indigenous knowledge and practices in fire prevention and management; and

(g) Ensuring that legislative, administrative and/or other relevant measures are taken to control open burning and to prevent land clearing using fire.

Article 10
Preparedness

1. The Parties shall, jointly or individually, develop strategies and response plans to identify, manage and control risks to human health and the environment arising from land and/or forest fires and related haze pollution arising from such fires.

2. The Parties shall, as appropriate, prepare standard operating procedures for regional co-operation and national action required under this Agreement.

Article 11
National Emergency Response

1. Each Party shall ensure that appropriate legislative, administrative and financial measures are taken to mobilise equipment, materials, human and financial resources required to respond to and mitigate the impact of land and/or forest fires and haze pollution arising from such fires.

2. Each Party shall forthwith inform other Parties and the ASEAN Centre of such measures.

Article 12
Joint Emergency Response through the Provision of Assistance

1. If a Party needs assistance in the event of land and/or forest fires or haze pollution arising from such fires within its territory, it may request such assistance from any other Party, directly or through the ASEAN Centre, or, where appropriate, from other States or international organisations.

2. Assistance can only be employed at the request of and with the consent of the requesting Party, or, when offered by another Party or Parties, with the consent of the receiving Party.

3. Each Party to which a request for assistance is directed shall promptly decide and notify the requesting Party, directly or through the ASEAN Centre, whether it is in a position to render the assistance requested, and of the scope and terms of such assistance.

4. Each Party to which an offer of assistance is directed shall promptly decide and notify the assisting Party, directly or through the ASEAN Centre, whether it is in a position to accept the assistance offered, and of the scope and terms of such assistance.

5. The requesting Party shall specify the scope and type of assistance required and, where practicable, provide the assisting Party with such information as may be necessary for that Party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting Party to specify the scope and type of assistance required, the requesting Party and assisting Party shall, in consultation, jointly assess and decide upon the scope and type of assistance required.

6. The Parties shall, within the limits of their capabilities, identify and notify the ASEAN Centre of experts, equipment and materials which could be made available for the provision of assistance to other Parties in the event of land and/or forest fires or haze pollution resulting from such fires as well as the terms, especially financial, under which such assistance could be provided.

Article 13
Direction and Control of Assistance

Unless otherwise agreed:

1. The requesting or receiving Party shall exercise the overall direction, control, co-ordination and supervision of the assistance within its territory. The assisting Party should, where the assistance involves personnel, designate in consultation with the requesting or receiving Party, the person or entity who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person or entity should exercise such supervision in co-operation with the appropriate authorities of the requesting or receiving Party.

2. The requesting or receiving Party shall provide, to the extent possible, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting Party for such purposes.

3. A Party providing or receiving assistance in response to a request referred to in paragraph (1) above shall co-ordinate that assistance within its territory.

Article 14
Exemptions and Facilities in Respect of the Provision of Assistance

1. The requesting or receiving Party shall accord to personnel of the assisting Party and personnel acting on its behalf, the necessary exemptions and facilities for the performance of their functions.

2. The requesting or receiving Party shall accord the assisting Party exemptions from taxation, duties or other charges on the equipment and materials brought into the territory of the requesting or receiving Party for the purpose of the assistance.

3. The requesting or receiving Party shall facilitate the entry into, stay in and departure from its territory of personnel and of equipment and materials involved or used in the assistance.

Article 15
Transit of Personnel, Equipment and Materials in Respect of the Provision of Assistance

Each Party shall, at the request of the Party concerned, seek to facilitate the transit through its territory of duly notified personnel, equipment and materials involved or used in the assistance to the requesting or receiving Party.

PART III
TECHNICAL CO-OPERATION AND SCIENTIFIC RESEARCH

Article 16
Technical Co-operation

1. In order to increase the preparedness for and to mitigate the risks to human health and the environment arising from land and/or forest fires or haze pollution arising from such fires, the Parties shall undertake technical co-operation in this field, including the following:

(a) Facilitate mobilisation of appropriate resources within and outside the Parties;

(b) Promote the standardisation of the reporting format of data and information;

(c) Promote the exchange of relevant information, expertise, technology, techniques and know-how;

(d) Provide or make arrangements for relevant training, education and awareness-raising campaigns, in particular relating to the promotion of zero-burning practices and the impact of haze pollution on human health and the environment;

(e) Develop or establish techniques on controlled burning particularly for shifting cultivators and small farmers, and to exchange and share experiences on controlled-burning practices;

(f) Facilitate exchange of experience and relevant information among enforcement authorities of the Parties;

(g) Promote the development of markets for the utilisation of biomass and appropriate methods for disposal of agricultural wastes;

(h) Develop training programmes for firefighters and trainers to be trained at local, national and regional levels; and

(i) Strengthen and enhance the technical capacity of the Parties to implement this Agreement.

2. The ASEAN Centre shall facilitate activities for technical co-operation as identified in paragraph 1 above.

Article 17
Scientific Research

The Parties shall individually or jointly, including in co-operation with appropriate international organisations, promote and, whenever possible, support scientific and technical research programmes related to the root causes and consequences of transboundary haze pollution and the means, methods, techniques and equipment for land and/or forest fire management, including fire fighting.

PART IV
INSTITUTIONAL ARRANGEMENTS

Article 18
Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Secretariat not later than one year after the entry into force of this Agreement. Thereafter, ordinary meetings of the Conference of the Parties shall be held at least once every year, in as far as possible in conjunction with appropriate meetings of ASEAN.

2. Extraordinary meetings shall be held at any other time upon the request of one Party provided that such request is supported by at least one other Party.

3. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Agreement and to this end shall:

(a) Take such action as is necessary to ensure the effective implementation of this Agreement;

(b) Consider reports and other information which may be submitted by a Party directly or through the Secretariat;

(c) Consider and adopt protocols in accordance with the Article 21 of this Agreement;

(d) Consider and adopt any amendment to this Agreement; e. Adopt, review and amend as required any Annexes to this Agreement;

(e) Establish subsidiary bodies as may be required for the implementation of this Agreement; and

(f) Consider and undertake any additional action that may be required for the achievement of the objective of this Agreement.

Article 19
Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall include:

(a) Arrange for and service meetings of the Conference of the Parties and of other bodies established by this Agreement;

(b) Transmit to the Parties notifications, reports and other information received in accordance with this Agreement;

(c) Consider inquiries by, and information from, the Parties, and to consult with them on questions relating to this Agreement;

(d) Ensure the necessary co-ordination with other relevant international bodies and in particular to enter into administrative arrangements as may be required for the effective discharge of the Secretariat functions; and

(e) Perform such other functions as may be assigned to it by the Parties.

3. The ASEAN Secretariat shall serve as the Secretariat to this Agreement.

Article 20
Financial Arrangements

1. A Fund is hereby established for the implementation of this Agreement.

2. It shall be known as the ASEAN Transboundary Haze Pollution Control Fund.

3. The Fund shall be administered by the ASEAN Secretariat under the guidance of the Conference of the Parties.

4. The Parties shall, in accordance with the decisions of the Conference of the Parties, make voluntary contributions to the Fund.

5. The Fund shall be open to contributions from other sources subject to the agreement of or approval by the Parties.

6. The Parties may, where necessary, mobilise additional resources required for the implementation of this Agreement from relevant international organisations, in particular regional financial institutions and the international donor community.

PART V
PROCEDURES

Article 21
Protocols

1. The Parties shall co-operate in the formulation and adoption of protocols to this Agreement, prescribing agreed measures, procedures and standards for the implementation of this Agreement.

2. The Conference of the Parties may, at ordinary meetings, adopt protocols to this Agreement by consensus of all Parties.

3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before such a session 16.

4. The requirements for the entry into force of any protocol shall be established by that instrument.

Article 22
Amendments to the Agreement

1. Any Party may propose amendments to the Agreement.

2. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the Conference of the Parties at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to the Agreement.

3. Amendments shall be adopted by consensus at an ordinary meeting of the Conference of the Parties.

4. Amendments to this Agreement shall be subject to acceptance. The Depositary shall circulate the adopted amendment to all Parties for their acceptance. The amendment shall enter into force on the thirtieth day after the deposit with the Depositary of the instruments of acceptance of all Parties.

5. After the entry into force of an amendment to this Agreement any new Party to this Agreement shall become a Party to this Agreement as amended.

Article 23
Adoption and Amendment of Annexes

1. Annexes to this Agreement shall form an integral part of the Agreement and, unless otherwise expressly provided, a reference to the Agreement constitutes at the same time a reference to the annexes thereto.

2. Annexes shall be adopted by consensus at an ordinary meeting of the Conference of the Parties.

3. Any Party may propose amendments to an Annex.

4. Amendments to an Annex shall be adopted by consensus at an ordinary meeting of the Conference of the Parties.

5. Annexes to this Agreement and amendments to Annexes shall be subject to acceptance. The Depositary shall circulate the adopted Annex or the adopted amendment to an Annex to all Parties for their acceptance. The Annex or the amendment to an Annex shall enter into force on the thirtieth day after the deposit with the Depositary of the instruments of acceptance of all Parties.

Article 24
Rules of Procedure and Financial Rules

The first Conference of the Parties shall by consensus adopt rules of procedure for itself and financial rules for the ASEAN Transboundary Haze Pollution Control Fund to determine in particular the financial participation of the Parties to this Agreement.

Article 25
Reports

The Parties shall transmit to the Secretariat reports on the measures taken for the implementation of this Agreement in such form and at such intervals as determined by the Conference of the Parties.

Article 26
Relationship with Other Agreements

The provisions of this Agreement shall in no way affect the rights and obligations of any Party with regard to any existing treaty, convention or agreement to which they are Parties.

Article 27
Settlement of Disputes

Any dispute between Parties as to the interpretation or application of, or compliance with, this Agreement or any protocol thereto, shall be settled amicably by consultation or negotiation

PART VI
FINAL CLAUSES

Article 28
Ratification, Acceptance, Approval and Accession

This Agreement shall be subject to ratification, acceptance, approval or accession by the Member States. It shall be opened for accession from the day after the date on which the Agreement is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 29
Entry into Force

1. This Agreement shall enter into force on the sixtieth day after the deposit of the sixth instrument of ratification, acceptance, approval or accession.

2. For each Member State ratifying, accepting, approving or acceding to the Agreement after the deposit of the sixth instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the sixtieth day after the deposit by such Member State of its instrument of ratification, acceptance, approval or accession.

Article 30
Reservations

Unless otherwise expressly provided by this Agreement no reservations may be made to the Agreement.

Article 31
Depositary

This Agreement shall be deposited with the Secretary General of ASEAN, who shall promptly furnish each Member State a certified copy thereof.

Article 32
Authentic Text

This Agreement shall be drawn up in the English language, and shall be the authentic text.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments have signed this Agreement.

DONE AT KUALA LUMPUR, MALAYSIA on the tenth day of June in the year two thousand and two.

For the Government of Brunei Darussalam
(see below)

For the Government of the Kingdom of Cambodia
H.E. Mr. Keo Puth Reasmey
Ambassador Royal Embassy of the Kingdom of Cambodia in Malaysia

For the Government of the Republic of Indonesia
Ms. Liana Bratasida
Deputy Minister for Environment Conservation
State Minister of Environment

For the Government of Lao People's Democratic Republic
H.E. Prof. Dr. Bountiem Phissamay
Minister to the Prime Minister's Office
Chairman of Science, Technology and Environment Agency

For the Government of Malaysia
H.E. Dato' Seri Law Hieng Ding
Minister of Science, Technology and the Environment

For the Government of the Union of Myanmar
U Thane Myint
Secretary, National Commission for Environmental Affairs
Director-General of the Ministry of Foreign Affairs

For the Government of the Republic of the Philippines.21

For the Government of the Republic of Singapore
H.E. Mr. Lim Swee Say
Minister for the Environment

For the Government of the Kingdom of Thailand
H.E. Mr. Chaisiri Anamarn
Ambassador Extraordinary and Plenipotentiary
Royal Thai Embassy in Malaysia

For the Government of the Socialist Republic of Viet Nam
H.E. Mr. Nguyen Van Dang
Vice Minister of Agriculture and Rural Development.

ANNEX
TERMS OF REFERENCE OF THE ASEAN CO-ORDINATING CENTRE FOR TRANSBOUNDARY HAZE POLLUTION CONTROL

The ASEAN Centre shall:

1. Establish and maintain regular contact with the respective National Monitoring Centres regarding the data, including those derived from satellite imagery and meteorological observation, relating to:

(a) Land and /or forest fire;

(b) Environmental conditions conducive to such fires; and

(c) Air quality and levels of pollution, in particular haze arising from such fires.

2. Receive from the respective National Monitoring Centres or Focal Points the data above, consolidate, analyse and process the data into a format that is easily understandable and accessible.

3. Facilitate co-operation and co-ordination among the Parties to increase their preparedness for and to respond to land and/or forest fires or haze pollution arising from such fires.

4. Facilitate co-ordination among the Parties, other States and relevant organisations in taking effective measures to mitigate the impact of land and/or forest fires or haze pollution arising from such fires.

5. Establish and maintain a list of experts from within and outside of the ASEAN region who may be utilised when taking measures to mitigate the impact of land and/or forest fires or haze pollution arising from such fires, and make the list available to the Parties.

6. Establish and maintain a list of equipment and technical facilities from within and outside of the ASEAN which may be made available when taking measures to mitigate the impact of land and/or forest fires or haze pollution arising from such fires, and make the list available to the Parties.

7. Establish and maintain a list of experts from within and outside of the ASEAN region for the purpose of relevant training, education and awareness-raising campaigns, and make the list available to the Parties.

8. Establish and maintain contact with prospective donor States and organisations for mobilising financial and other resources required for the prevention and mitigation of land and/or forest fires or haze pollution arising from such fires and preparedness of the Parties, including fire-fighting capabilities.

9. Establish and maintain a list of such donors, and make the list available to the Parties.

10. Respond to a request for or offer of assistance in the event of land and/or forest fires or haze pollution resulting from such fires by:

(a) Transmitting promptly the request for assistance to other States and organisations; and

(b) Co-ordinating such assistance, if so requested by the requesting Party or offered by the assisting Party.

11. Establish and maintain an information referral system for the exchange of relevant information, expertise, technology, techniques and know-how, and make it available to the Parties in an easily accessible format.

12. Compile and disseminate to the Parties information concerning their experience and any other practical information related to the implementation of the Agreement.

13. Assist the Parties in the preparation of standard operating procedures (SOP).

67. AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union (AU),

Conscious that the natural environment of Africa and the natural resources with which Africa is endowed are an irreplaceable part of the African heritage and constitute a capital of vital importance to the continent and humankind as a whole;

Confirming, as we accepted upon declaring our adherence to the Charter of the Organization of African Unity, that it is our duty "to harness the natural and human resources of our continent for the total advancement of our peoples in spheres of human endeavour";

Conscious of the ever-growing importance of natural resources from economic, social, cultural and environmental points of view;

Affirming that the conservation of the global environment is a common concern of human kind as a whole, and the conservation of the African environment a primary concern of all Africans;

Re-affirming that States have, in accordance with the Charter of the United Nations and the principles of international law, a sovereign right to exploit their own resources pursuant to their environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Re-affirming further that States are responsible for protecting and conserving their environment and natural resources and for using them in a sustainable manner with the aim to satisfy human needs according to the carrying capacity of the environment;

Conscious of the dangers which threaten some of these irreplaceable assets;

Desirous of undertaking individual and joint action for the conservation, utilization and development of these assets by establishing and maintaining their sustainable use;

Recalling the Lagos Plan of Action for the Economic Development of Africa and the Final Act of Lagos as well as the African Charter on Human and Peoples Rights;

Taking note of the Charter of Economic Rights and Duties of States and of the World Charter for Nature adopted by the General Assembly of the United Nations;

Conscious of the need to continue furthering the principles of the Stockholm Declaration, to contribute to the implementation of the Rio Declaration and of Agenda 21, and to work closely together towards the implementation of global and regional instruments supporting their goals;

Considering the principles and objectives stated in the Treaty Establishing the African Economic Community and the Constitutive Act of the African Union;

Convinced that the above objectives would be better achieved by amending the 1968 Algiers Convention on the Conservation of Nature and Natural Resources by expanding elements related to sustainable development;

Have agreed as follows:

Article I
Scope

This Convention shall apply:

1. to all areas which are within the limits of national jurisdiction of any Party; and

2. to the activities carried out under the jurisdiction or control of any Party within the area of its national jurisdiction or beyond the limits of its national jurisdiction.

Article II
Objectives

The objectives of this Convention are:

1. to enhance environmental protection;

2. to foster the conservation and sustainable use of natural resources; and

3. to harmonize and coordinate policies in these fields with a view to achieving ecologically rational, economically sound and socially acceptable development policies and programmes.

Article III
Principles

In taking action to achieve the objectives of this Convention and implement its provisions, the Parties shall be guided by the following:

1. the right of all peoples to a satisfactory environment favourable to their development;

2. the duty of States, individually and collectively to ensure the enjoyment of the right to development;

3. the duty of States to ensure that developmental and environmental needs are met in a sustainable, fair and equitable manner.

Article IV
Fundamental Obligation

The Parties shall adopt and implement all measures necessary to achieve the objectives of this Convention, in particular through preventive measures and the application of the precautionary principle, and with due regard to ethical and traditional values as well as scientific knowledge in the interest of present and future generations.

Article V
Use of Terms

For purposes of this Convention:

1. "Natural Resources" means renewable resources, tangible and non tangible, including soil, water, flora and fauna and non renewable resources. Whenever the text of the Convention refers to non renewable resources this will be specified.

2. "Specimen" means any animal or plant or micro organism, alive or dead.

3. "Product" means any part or derivative of a specimen.

4. "Species" means any species, sub species, or geographically separate population thereof.

5. "Threatened Species" means any species of fauna or flora which is considered critically endangered, endangered, or vulnerable, for which definitions are contained in Annex 1 to this Convention, and for which criteria may be adopted and from time to time reviewed by the Conference of the Parties, taking into consideration the work of competent international organisations in this field.

6. "Conservation area" means:

(a) any protected area designated and managed mainly or wholly for one of the following purposes:
   (i) science or wilderness protection (Strict Nature Reserve/Wilderness Areas);
   (ii) ecosystem protection and recreation (National Parks);
   (iii) conservation of specific natural features (National Monuments);
   (iv) conservation through management interventions (Habitat/Species Management Areas);
   (v) landscape/seascape conservation and re-creation (Protected Landscapes/Seascapes);
   (vi) the sustainable use of natural ecosystems (Managed Resource Protected Areas). for which definitions and management objectives are contained in Annex 2 to this Convention, as well as,

(b) other areas designated and/or managed primarily for the conservation and sustainable use of natural resources, for which criteria may be adopted and from time to time reviewed by the Conference of the Parties.

7. "Biological Diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine, or other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

8. "Original Convention" means the African Convention on the Conservation of Nature and Natural Resources, adopted in 1968 in Algiers. Whenever a specific term not defined in this Convention has been defined in global conventions it can be construed as defined in those conventions. Where an African regional or sub regional convention exists that defines such terms, these definitions shall prevail.

Article VI
Land and Soil

1. The Parties shall take effective measures to prevent land degradation, and to that effect shall develop long-term integrated strategies for the conservation and sustainable management of land resources, including soil, vegetation and related hydrological processes.

2. They shall in particular adopt measures for the conservation and improvement of the soil, to, inter alia, combat its erosion and misuse as well as the deterioration of its physical, chemical and biological or economic properties.

3. To this end:

(a) they shall establish land-use plans based on scientific investigations as well as local knowledge and experience and, in particular, classification and land-use capability;

(b) they shall, when implementing agricultural practices and agrarian reforms,
   (i) improve soil conservation and introduce sustainable farming and forestry practices, which ensure long-term productivity of the land,
   (ii) control erosion caused by land misuse and mismanagement which may lead to long-term loss of surface soils and vegetation cover,
   (iii) control pollution caused by agricultural activities, including aquaculture and animal husbandry;

(c) they shall ensure that non-agricultural forms of land use, including but not limited to public works, mining and the disposal of wastes, do not result in erosion, pollution, or any other form of land degradation;

(d) they shall, in areas affected by land degradation, plan and implement mitigation and rehabilitation measures.

4. Parties shall develop and implement land tenure policies able to facilitate the above measures, inter alia by taking into account the rights of local communities.

Article VII
Water

1. The Parties shall manage their water resources so as to maintain them at the highest possible quantitative and qualitative levels. They shall, to that effect, take measures designed to:

(a) maintain water-based essential ecological processes as well as to protect human health against pollutants and water-borne diseases,

(b) prevent damage that could affect human health or natural resource in another State by the discharge of pollutants, and

(c) prevent excessive abstraction, to the benefit of downstream communities and States.

2. The Parties shall establish and implement policies for the planning, conservation, management, utilization and development of underground and surface water, as well as the harvesting and use of rain water, and shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water, taking appropriate measures with due regard to:

(a) the study of water cycles and the investigation of each catchment area,

(b) the integrated management of water resources,

(c) the conservation of forested and other catchment areas and the co-ordination and planning of water resources development projects,

(d) the inventory and management of all water resources, including the administration and control of all water utilization, and

(e) the prevention and control of water pollution through, inter alia, the establishment of effluent and water quality standards.

3. Where surface or underground water resources and related ecosystems including wetlands, are transboundary to two or more of the Parties, the latter shall act in consultation, and if the need arises, set up inter-State Commissions, for their rational management and equitable utilization and to resolve disputes arising from the use of these resources, and for the cooperative development, management and conservation thereof.

4. The Parties undertake, individually or within sub-regional arrangements, to cooperate in rational water husbandry and conservation in irrigated agriculture for improved food security and sustainable agro-based industrialization.

Article VIII
Vegetation Cover

1. The Parties shall take all necessary measures for the protection, conservation, sustainable use and rehabilitation of vegetation cover. To this end they shall:

(a) adopt scientifically-based and sound traditional conservation, utilization and management plans for forests, woodlands, rangelands, wetlands and other areas with vegetation cover, taking into account the social and economic needs of the peoples concerned, the importance of the vegetation cover for the maintenance of the water balance of an area, the productivity of soils and the habitat requirements of species;

(b) take concrete steps or measures to control fires, forest exploitation, land clearing for cultivation, grazing by domestic and wild animals, and invasive species;

(c) establish forest reserves and carry out afforestation programmes where necessary;

d) limit forest grazing to season and intensities that will not prevent forest regeneration.

Article IX
Species and Genetic Diversity

1. The Parties shall maintain and enhance species and genetic diversity of plants and animals whether terrestrial, fresh-water or marine. They shall, for that purpose, establish and implement policies for the conservation and sustainable use of such resources; particular attention shall be paid to socially, economically and ecologically valuable species, which are threatened and species which are only represented in areas under the jurisdiction of one Party.

2. The Parties shall ensure the conservation of species and their habitats within the framework of land-use planning and of sustainable development. Management of species and their habitats shall be based on the results of continued scientific research and Parties shall:

(a) manage plant and animal populations inside conservation areas according to the objectives of such areas;

(b) manage harvestable populations outside such areas in a sustainable manner, compatible with and complementary to other sustainable land uses;

(c) establish and/or strengthen existing facilities for ex situ conservation to perpetuate animal or plant species of particular interest;

(d) manage and protect aquatic environments, whether in fresh, brackish or marine water, with a view to minimising deleterious effects of any water and land use practice which might adversely affect aquatic habitats;

(e) undertake inventories of species of fauna and flora and prepare maps of their distribution and abundance, and conduct regular reviews to facilitate the monitoring of the status of such species and their habitats with a view to:
   (i) providing the appropriate scientific basis for decisions pertaining to their conservation and use,
   (ii) identifying species that are threatened or may become so, and providing them accordingly with appropriate protection, and
   (iii) identifying species that are migratory or congregatory and therefore confined to specific areas at particular seasons, and providing them with appropriate protection;

(f) identify areas of critical importance for the survival of species of fauna and flora which are threatened;

(g) preserve as many varieties as possible of domestic or cultivated species and their wild relatives, as well as of other economically valuable species, including forest trees and micro-organisms;

(h) strictly control the intentional and, in as far as possible, accidental introduction, in any area, of species which are not native to that area, including modified organisms, and endeavour to eradicate those already introduced where the consequences are detrimental to native species or to the environment in general;

(i) take appropriate measures to control pests and eradicate animal and plant diseases;

(j) provide for fair and equitable access to genetic resources, on terms mutually agreed between the providers and users of such resources; and

(k) provide for the fair and equitable sharing of benefits arising out of biotechnologies based upon genetic resources and related traditional knowledge with the providers of such resources.

3. Parties shall adopt legislation regulating all forms of taking, including hunting, capture and fishing and collection of whole or parts of plants under which:

(a) the conditions and procedures for issue of permits are appropriately regulated;

(b) taking is regulated with a view to ensuring the use of any population is sustainable.Measures to that effect shall include:
   (i) closed seasons,
   (ii) temporary or local prohibitions of exploitation, as needed to restore satisfactory population levels,
   (iii) the prohibition of the use of all indiscriminate means of taking and of the use of all means capable of causing mass destructions, as well as local disappearance of, or serious disturbance to, populations of a species, in particular the means specified in Annex 3;

(c) with a view to as rational use as possible of the products of hunting and fishing, the use and abandonment of such products, and plant collection is regulated;

(d) operations carried out by, or under the control of, the competent authority for management purposes may nevertheless be exempted from specific restrictions.

Article X
Protected Species

1. The Parties undertake to identify the factors that are causing the depletion of animal and plant species which are threatened or which may become so, with a view to their elimination, and to accord a special protection to such species, whether terrestrial, freshwater or marine, and to the habitat necessary for their survival. Where a species is represented only in areas under the jurisdiction of one Party, that Party has a particular responsibility for its protection.

2. The Parties shall adopt legislation on the protection of species referred to in paragraph 1 above, taking into particular account the need to develop or maintain throughout the African continent concerted protection measures for such species. One or several Annexes to this Convention may be adopted by the Conference of the Parties to that effect.

Article XI
Trade in Specimens and Products thereof

1. The Parties shall:

(a) regulate the domestic trade in as well as the transport and possession of specimens and products to ensure that such specimens and products have been or obtained in conformity with domestic law and international obligations related to trade in species;

(b) in the measures referred to under a) above, provide for appropriate penal sanctions, including confiscation measures.

2. The Parties shall, where appropriate, cooperate through bilateral or sub-regional agreements with

a view to reducing and ultimately eliminating illegal trade in wild fauna and flora or their specimens or products.

Article XII
Conservation Areas

1. The Parties shall establish, maintain and extend, as appropriate, conservation areas. They shall, preferably within the framework of environmental and natural resources policies, legislation and programmes, also assess the potential impacts and necessity of establishing additional conservation areas and wherever possible designate such areas, in order to ensure the long term conservation of biological diversity, in particular to:

(a) conserve those ecosystems which are most representative of and peculiar to areas under their jurisdiction, or are characterized by a high degree of biological diversity;

(b) ensure the conservation of all species and particularly of those which are:
   (i) only represented in areas under their jurisdiction;
   (ii) threatened, or of special scientific or aesthetic value; and of the habitats that are critical for the survival of such species.

2. The Parties shall seek to identify areas critically important to the goals referred to in sub paragraph 1 (a) and 1(b) above which are not yet included in conservation areas, taking into consideration the work of competent international organisations in this field.

3. The Parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources.

4. The Parties shall, where necessary, and if possible control activities outside conservation areas which are detrimental to the achievement of the purpose for which the conservation areas were created, and establish for that purpose buffer zones around their borders.

Article XIII
Processes and Activities Affecting the Environment and Natural Resources

1. The Parties shall, individually or jointly, and in collaboration with the competent international organizations concerned, take all appropriate measures to prevent, mitigate and eliminate to the maximum extent possible, detrimental effects on the environment, in particular from radioactive, toxic, and other hazardous substances and wastes. For this purpose, they shall use the best practicable means and shall endeavour to harmonize their policies, in particular within the framework of relevant conventions to which they are Parties.

2. To that effect, Parties shall:

(a) establish, strengthen and implement specific national standards, including for ambient environmental quality, emission and discharge limits as well as process and production methods and product quality;

(b) provide for economic incentives and disincentives, with a view to preventing or abating harm to the environment, restoring or enhancing environmental quality, and implementing international obligations in these regards; and

(c) adopt measures necessary to ensure that raw materials, non-renewable resources, and energy, are conserved and used as efficiently as possible, and that used materials are reused and recycled to the maximum extent possible while nondegradable materials are disposed of in the most effective and safe way.

Article XIV
Sustainable Development and Natural Resources

1. The Parties shall ensure that:

(a) conservation and management of natural resources are treated as an integral part of national and/or local development plans;

(b) in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors in order to promote sustainable development.

2. To this end, the Parties shall:

(a) to the maximum extent possible, take all necessary measures to ensure that development activities and projects are based on sound environmental policies and do not have adverse effects on natural resources and the environment in general;

(b) ensure that policies, plans, programmes, strategies, projects and activities likely to affect natural resources, ecosystems and the environment in general are the subject of adequate impact assessment at the earliest possible stage and that regular environmental monitoring and audit are conducted;

(c) monitor the state of their natural resources as well as the impact of development activities and projects upon such resources.

Article XV
Military and Hostile Activities

1. The Parties shall:

(a) take every practical measure, during periods of armed conflict, to protect the environment against harm;

(b) refrain from employing or threatening to employ methods or means of combat which are intended

or may be expected to cause widespread, long-term, or severe harm to the environment and ensure that such means and methods of warfare are not developed, produced, tested or transferred;

(c) refrain from using the destruction or modification of the environment as a means of combat or reprisal;

(d) undertake to restore and rehabilitate areas damaged in the course of armed conflicts.

2. The Parties shall cooperate to establish and further develop and implement rules and measures to protect the environment during armed conflicts.

Article XVI
Procedural Rights

1. The Parties shall adopt legislative and regulatory measures necessary to ensure timely and appropriate: dissemination of environmental information; access of the public to environmental information; participation of the public in decision-making with a potentially significant environmental impact; and access to justice in matters related to protection of environment and natural resources.

2. Each Party from which a transboundary environmental harm originates shall ensure that any person in another Party affected by such harm has a right of access to administrative and judicial procedures equal to that afforded to nationals or residents of the Party of origin in cases of domestic environmental harm.

Article XVII
Traditional Rights of Local Communities and Indigenous Knowledge

1. The Parties shall take legislative and other measures to ensure that traditional rights and intellectual property rights of local communities including farmers' rights are respected in accordance with the provisions of this Convention.

2. The Parties shall require that access to indigenous knowledge and its use be subject to the prior informed consent of the concerned communities and to specific regulations recognizing their rights to, and appropriate economic value of, such knowledge.

3. The Parties shall take the measures necessary to enable active participation by the local communities in the process of planning and management of natural resources upon which such communities depend with a view to creating local incentives for the conservation and sustainable use of such resources.

Article XVIII
Research

1. The Parties shall strengthen their capabilities to carry out scientific and technological research in conservation, sustainable utilization and management of natural resources paying particular attention to ecological and socio-economic factors as well as their integration, and shall ensure the application of research results to the development and implementation of their environmental conservation policies.

2. The Parties shall promote cooperation in scientific and technological research, as well as in economic and marketing systems, between themselves and with third parties in the field of environmental conservation and sustainable use of natural resources.
To that end, they shall in particular:

(a) coordinate their research programmes with a view to achieving maximum synergy and complementarity;

(b) promote the exchange of research results; and

(c) promote the development of joint research activities and programmes in the fields covered by this Convention.

Article XIX
Development and Transfer of Technology

1. The Parties shall encourage and strengthen cooperation for the development and use, as well as access to and transfer of, environmentally sound technologies on mutually agreed terms, with a view to accelerating the transition to sustainable development, in particular by establishing joint research programmes and ventures.

2. To that effect the Parties shall adopt legislative and regulatory measures which provide for inter alia, economic incentives for the development, importation, transfer and utilization of environmentally sound technologies in the private and public sectors. In implementing paragraphs 1. and 2. above, attention shall be paid to technologies which can be used locally by individuals, local communities and small/medium enterprises.

Article XX
Capacity Building, Education and Training

1.(a) The Parties shall promote environmental education, training and awareness creation at all levels in order to enhance their peoples' appreciation of their close dependence on natural resources and their understanding of the reasons and rules for the sustainable use of these resources.

(b) For this purpose they shall ensure that environmental matters:

(i) are included in educational and training programmes at all levels, and
(ii) form the object of information campaigns capable of acquainting the public with, and winning it over to, the concepts of conservation and sustainable use of natural resources.

(c) In order to put into effect paragraphs a) and b) above, the Parties shall make maximum use of the educational and training value of conservation areas and the experience of local communities.

2. Parties shall develop their capacities in the field of education and training relating to environmental and natural resources conservation and use, in particular through the promotion and development of:
(a) training of trainers programmes;

(b) appropriate teaching and training materials;

(c) available and accessible educational and training opportunities at all levels.

3. In order to facilitate the implementation of paragraphs 1 and 2 above, the Parties shall cooperate among themselves, in particular with a view to strengthening or establishing:
(a) regional or sub-regional training institutions;

(b) joint training programmes;

(c) libraries and documentation centres; and

(d) a continuous exchange of information and experience in the fields covered by this convention.

Article XXI
National Authorities

Each Party shall establish or designate, if it has not already done so, a national authority empowered to deal with all matters covered by this Convention, and/or, where appropriate, establish a co-ordinating machinery between existing national institutions.

Article XXII
Co-operation

1. The Parties shall co-operate between themselves and, where appropriate and possible, with other States:
(a) to give effect to the provisions of this Convention;

(b) whenever any national measure is likely to affect the environment or natural resources of any other State or areas beyond national jurisdiction;

(c) in order to enhance the individual and combined effectiveness of their policies and legislations, as well as measures adopted under this Convention and under other international conventions in the fields of environmental protection and natural resources conservation and use; and

(d) in order to harmonize their policies and laws at the continental or regional levels, as appropriate.

2. In particular:
(a) whenever an environmental emergency or natural disaster occurring in a Party is likely to affect the natural resources of another State, the latter shall be provided with all relevant available data by the former as early as practicable;

(b) when a Party has reasons to believe that a programme, activity or project to be carried out in areas under its jurisdiction may have adverse effects on the natural resources of another State, it shall provide that other State with relevant information on the proposed measures and their possible effects, and shall consult with that State;

(c) whenever a Party objects to an activity referred to in sub-paragraph b) above, they shall enter into negotiations;

(d) Parties shall develop disaster preparedness, prevention and management programmes, and as the need arises hold consultations towards mutual assistance initiatives;

(e) whenever a natural resource or an ecosystem is transboundary, the Parties concerned shall undertake to cooperate in the conservation, development and management of such resource or ecosystem and if the need arises, set up interstate commissions for their conservation and sustainable use;

(f) the Parties shall, prior to the export of hazardous substances, or of alien or modified organisms, undertake to secure the prior informed consent of the importing, and where appropriate, transit States;

(g) the Parties shall take concerted action regarding the transboundary movement, management and processing of hazardous wastes, with a view to supporting, individually and jointly, international accords in this field, and to implementing African instruments related thereto;

(h) the Parties shall exchange information bilaterally or through competent international agencies on activities and events likely to affect the natural resources and the environment of areas beyond national jurisdiction.

Article XXIII
Compliance

The Conference of the Parties shall, as soon as possible, develop and adopt rules, procedures and institutional mechanisms to promote and enhance compliance with the provisions of this Convention.

Article XXIV
Liability

The Parties shall, as soon as possible, adopt rules and procedures concerning liability and compensation of damage related to matters covered by this Convention.

Article XXV
Exceptions

1. The provisions of this Convention shall not affect the responsibilities of Parties concerning:
(a) "force majeure"; and

(b) defence of human life.

2. The provisions of this Convention shall not prevent Parties:
(a) in time of declared emergencies arising from disasters; and

(b) for the protection of public health; from adopting precisely defined measures derogatory to the provisions of the Convention, provided their application is limited in respect of aim, duration and place.

3. The Parties who take action in accordance with paragraphs 1 and 2 undertake to inform the Conference of the Parties without delay, through the Secretariat, of the nature and circumstances of these measures.

Article XXVI
Conference of the Parties

1. A Conference of the Parties is hereby established at ministerial level, as the decision-making body of this Convention. The first meeting of the Conference of the Parties shall be convened by the Chairperson of the Commission of the African Union not later than one year after the entry into force of the Convention. Thereafter ordinary meetings shall be convened at least once every two years, unless the Conference decides otherwise.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. At its first meeting, the Conference of the Parties shall adopt rules of procedure for itself and for any subsidiary body it may establish, as well as determine the rules governing the funding and operation of the Secretariat; Parties shall make every effort to reach these decisions by consensus; if all efforts at consensus have been exhausted, and no agreement reached, the decisions shall as a last resort be adopted by a two-third majority of the Parties present and voting.

4. At each of its ordinary meetings, the Conference of the Parties shall adopt a programme and budget for the financial period until the next ordinary meeting.

5. The Conference of the Parties shall keep under review and promote the effective implementation of this Convention, and, for this purpose, shall:
(a) make recommendations to the Parties on any matters related to the implementation of this Convention;

(b) receive and consider information and reports presented by the Secretariat or by any Party and make recommendations thereto;

(c) establish such subsidiary bodies as are deemed necessary for the implementation of this Convention, in particular to provide scientific and technical advice;

(d) review reports submitted by any subsidiary body and provide guidance to them;

(e) promote and facilitate the exchange of information on measures proposed or adopted by the Parties;

(f) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;

(g) consider and adopt, as required, amendments to this Convention;

(h) consider and adopt, as required, additional Annexes and amendments to the Annexes to this Convention;

(i) seek, through the Secretariat, the co-operation of, and utilize the services of and information provided by, competent bodies or agencies, whether national or international, governmental or non-governmental, and strengthen the relationship with other relevant conventions; and

(j) consider any other matter within the scope of this Convention.

6. African Regional Economic Communities, as well as African regional and sub-regional intergovernmental organizations may be represented at meetings of the Conference of the Parties without the right to vote. The United Nations, its specialized agencies and any State Party to the original Convention not party to this Convention, may be represented at meetings of the Conference of the Parties and participate as observers. Any non-governmental organization, whether national, continental, regional or sub-regional, or international, which is qualified in

matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The participation of Observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article XXVII
The Secretariat

1. A Secretariat to this Convention is hereby established.

2. At its first meeting, the Conference of the Parties shall designate an organisation to carry out the Secretariat functions under the Convention or shall appoint its own Secretariat and determine its location.

3. The functions of the Secretariat shall be:
(a) to arrange for and service meetings of the Conference of the Parties and of its subsidiary bodies;

(b) to execute the decisions addressed to it by the Conference of the Parties;

(c) to draw the attention of the Conference of the Parties to matters pertaining to the objectives of this Convention and its implementation;

(d) to gather and disseminate among the Parties the texts of laws, decrees, regulations and instructions in force which are intended to ensure the implementation of this Convention, as well as reports pertaining to such implementation;

(e) to administer the budget for the Convention and if established, its conservation fund;

(f) to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(g) to prepare studies and reports on its activities carried out in the implementation of its functions under this Convention and present them to the Conference of Parties;

(h) to coordinate its activities with the secretariats of other relevant international bodies and conventions;

(i) to provide information for the general public concerning the Convention and its objectives; and

(j) to perform such other functions as may be assigned to it by this Convention, or determined by the Conference of the Parties.

Article XXVIII
Financial Resources

1. Given the central importance of financing to the achievement of the purposes of this Convention, each Party, taking into account its capability, shall make every effort to ensure that adequate financial resources are available for the implementation of this Convention.

2. Financial resources towards the budget of the Convention shall consist of assessed contributions from Parties, annual contributions by the AU, and contributions from other institutions. Contributions of the Parties to the budget of the Convention shall be in accordance with the scale of assessment approved by the Conference of the Parties at its first meeting.

3. The Conference of the Parties may establish a conservation fund constituted from voluntary contributions of Parties or from any other source accepted by the Conference for the purpose of financing projects and activities relating to the conservation of the environment and natural resources. The fund shall function under the authority of, and be accountable to, the Conference of the Parties.

4. The Parties, individually or jointly, shall seek to mobilize further financial resources and to that effect seek full use and continued qualitative improvement of all national, bilateral and multilateral funding resources and mechanisms, using consortia, joint programmes and parallel financing, and shall seek to involve private sector funding resources and mechanisms, including those of non-governmental organizations.

Article XXIX
Reports and Information

1. The Parties shall present, through the Secretariat, to the Conference of the Parties reports on the measures adopted by them in the implementation of this Convention and the results thereof in applying its provisions in such form and at such intervals as the Conference of the Parties may determine. This presentation shall be accompanied by the comments of the Secretariat, in particular regarding failure to report, adequacy of the report and of the measures described therein.

2. The Parties shall supply the Secretariat with:
(a) the texts of laws, decrees, regulations and instructions in force which are intended to ensure the implementation of this Convention;

(b) any other information that may be necessary to provide complete documentation on matters dealt with by this Convention;

(c) the names of the agencies or coordinating institutions empowered to be focal points in matters under this Convention; and

(d) information on bilateral or multilateral agreements relating to the environment and natural resources to which they are parties.

Article XXX
Settlement of Disputes

1. Any dispute between the Parties regarding the interpretation or the application of the provisions of this Convention shall be amicably settled through direct agreement reached by the parties to the dispute directly or through the good offices of a third party. If the parties concerned fail to settle such dispute, either party may, within a period of twelve months, refer the matter to the Court of Justice of the African Union.

2. The decisions of the Court of Justice shall be final and shall not be subject to appeal.

Article XXXI
Amendments of the Convention

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Conference of the Parties at which it is proposed for approval. The Secretariat shall also communicate proposed amendments to the signatories to this Convention at least three months before the meeting.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties present and voting.

4. The Depository shall communicate the adoption of the amendment to all Parties and signatories to this Convention.

5. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article XXXII
Adoption and Amendments of Annexes

1. The annexes to this Convention shall form an integral part of the convention. Such annexes shall be restricted to scientific, technical, financial and administrative matters.

2. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) any Party may propose additional annex to this Convention;

(b) the text of any proposed additional annex to this Convention shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Conference of the Parties at which it is proposed for adoption. The Secretariat shall also communicate the text of any proposed additional annex to the signatories to this Convention at least three months before the meeting;

(c) the Parties shall make every effort to reach agreement on any proposed additional annex to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the additional annex shall as a last resort be adopted by a two-third majority vote of the Parties present and voting;

(d) the Depository shall communicate the adoption of the Annex to all Parties and signatories to this Convention;

(e) any Party that is unable to accept an additional annex to this Convention shall notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(d) upon expiration of six months from the date of the circulation of the communication by the Depositary, the annex shall enter into force for all Parties to this Convention, which have not submitted a notification in accordance with the provisions of subparagraph e) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedure as for the proposal, adoption and entry into force of additional annexes to the Convention.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amended annex shall not enter into force until such time as

the amendment to this Convention enters into force.

Article XXXIII
Right to Vote

Each Party to this Convention shall have one vote.

Article XXXIV
Relationship between Parties to the Revised Convention and Parties Bound by the 1968 Algiers Convention

1. Between Parties which are bound by this Convention, only this Convention shall apply.

2. The relationships between Parties to the original Convention and Parties to this Convention shall be governed by the provisions of the original Convention.

Article XXXV
Relationship with other International Conventions

The provisions of this Convention do not affect the rights and obligations of any Party deriving from existing international treaties, conventions or agreements.

Article XXXVI
Signature and Ratification

1. This Convention shall be open for signature immediately after being adopted by the Assembly of the African Union.

2. The Convention shall be subject to ratification, acceptance or approval by each of the States referred to in paragraph 1 above. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article XXXVII
Accession

1. This Convention shall be open to accession by Member States of the AU from the date on which it is closed for signature.

2. The instruments of accession shall be deposited with the Depositary.

Article XXXVIII
Entry into Force

1. This Convention shall come into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary, who shall inform the States referred to in Articles XXXVI and XXXVII accordingly.

2. For each State which ratifies, accepts or approves this Convention or accedes thereto after the depositing of the fifteenth instrument of ratification, acceptance, approval or accession, this Convention shall come into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. Any State that becomes a party to the present Convention that was not a party to the 1968 Algiers Convention shall take necessary steps to withdraw from the London Convention of 1933 on the Conservation of Flora and Fauna in their Natural state.

4. No instrument of accession to the 1968 Algiers Convention may be deposited after the adoption of this Convention.

Article XXXIX
Reservations

No reservation may be made to this Convention.

Article XL
Withdrawal

1. Any Party may withdraw from this Convention by notification in writing addressed to the Depositary.

2. Such withdrawal shall take effect, for such a Party, one year after the date of receipt of its notification by the Depositary.

3. No withdrawal shall, however, be made before the expiry of a period of five years from the date at which this Convention comes into force for the Party concerned.

Article XLI
Secretariat Interim Arrangements

The Secretariat functions referred to in Article XVII.3 shall be carried out on an interim basis by the Chairperson of the African Union until the decision of the Conference of the Parties referred to in Article XXVII.2 has been taken.

Article XLII
Depositary

The Chairperson of the African Union shall be the Depositary of this Convention.

Article XLIII
Authentic Texts

The original of this Convention of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Depositary.

ADOPTED BY THE SECOND ORDINARY SESSION OF THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT OF THE AFRICAN UNION IN MAPUTO, MOZAMBIQUE, ON ELEVENTH JULY TWO THOUSAND AND THREE.

ANNEX 1
Threatened Species Definition

A threatened species is a species which is either:
(a) Critically Endangered:
A taxon is "critically endangered" when the best available evidence indicates that it is considered to be facing an extremely high risk of extinction in the wild.

(b) Endangered:
A taxon is "endangered" when the available evidence indicates that it is considered to be facing a very high risk of extinction in the wild.

(c) Vulnerable:
A taxon is "vulnerable" when the best available evidence indicates that it is considered to be facing a high risk of extinction in the wild.

ANNEX 2
Conservation Areas

Definitions and Management Objectives Strict Nature Reserve: protected area managed mainly for science

Definition
Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

Objectives of Management
- to preserve habitats, ecosystems and species in as undisturbed a state as possible;
- to maintain genetic resources in a dynamic and evolutionary state;
- to maintain established ecological processes;
- to safeguard structural landscape features or rock exposures;
- to secure examples of the natural environment for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded;
- to minimise disturbance by careful planning and execution of research and other approved activities; and
- to limit public access.

Wilderness Area: protected area managed mainly for wilderness protection

Definition
Large area of unmodified or slightly modified land, and/or sea, retaining its natural character and influence, without permanent or significant habitation, which is protected and managed so as to preserve its natural condition.

Objectives of Management
- to ensure that future generations have the opportunity to experience understanding and enjoyment of areas that have been largely undisturbed by human action over a long period of time;
- to maintain the essential natural attributes and qualities of the environment over the long term;
- to provide for public access at levels and of a type which will serve best the physical and spiritual well being of visitors and maintain the wilderness qualities of the area for present and future generations; and
- to enable local communities living at low density and in balance with the available resources to maintain their life style.

National Park: protected area managed mainly for ecosystem protection and recreation

Definition
Natural area of land and/or sea, designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

Objectives of Management
- to protect natural and scenic areas of national and international significance for spiritual, scientific, educational, recreational or tourist purposes;
- to perpetual, in as natural a state as possible, representative examples of physiographic regions, biotic communities, genetic resources, and species, to provide ecological stability and diversity;
- to manage visitor use for inspirational, educational, cultural and recreational purposes at a level which will maintain the area in a natural or near natural state;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation;
- to maintain respect for the ecological, geomorphologic, sacred or aesthetic attributes which warranted designation; and
- to take into account the needs of local communities, including subsistence resource use, in so far as these will not adversely affect the other objectives of management.

Natural Monument: protected area managed mainly for conservation of specific natural features

Definition
Area containing one, or more, specific natural or natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative or aesthetic qualities or cultural significance.

Objectives of Management
- to protect or preserve in perpetuity specific outstanding natural features because of their natural significance, unique or representational quality, and/or spiritual connotations;
- to an extent consistent with the foregoing objective, to provide opportunities for research, education, interpretation and public appreciation;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purpose of designation; and

- to deliver to any resident population such benefits as are consistent with the other objectives of management.

Habitat/Species Management Area: protected area managed mainly for conservation through management intervention

Definition
Area of land and/or sea subject to active intervention for management purposes so as to ensure the maintenance of habitats and/or to meet the requirements of specific species.

Objectives of Management
- to secure and maintain the habitat conditions necessary to protect significant species, groups of species, biotic communities or physical features of the environment where these require specific human manipulation for optimum management;
- to facilitate scientific research and environmental monitoring as primary activities associated with sustainable resource management;
- to develop limited areas for public education and appreciation of the characteristics of the habitats concerned and of the work of wildlife management;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation; and
- to deliver such benefits to people living within the designated area as are consistent with the other objectives of management.

Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation

Definition
Area of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area.
Objectives of Management
- to maintain the harmonious interaction of nature and culture through the protection of landscape and/or seascape and the continuation of traditional land uses, building practices and social and cultural manifestations;
- to support lifestyles and economic activities which are in harmony with nature and the preservation of the social and cultural fabric of the communities concerned;
- to maintain the diversity of landscape and habitat, and of associated species and ecosystems;
- to eliminate where necessary, and thereafter prevent, land uses and activities which are inappropriate in scale and/or character;
- to provide opportunities for public enjoyment through recreation and tourism appropriate in type and scale to the essential qualities of the areas;
- to encourage scientific and educational activities which will contribute to the long term well-being of resident populations and to the development of public support for the environmental protection of such areas; and
- to bring benefits to, and to contribute to the welfare of, the local community through the provision of natural products (such as forest and fisheries products) and services (such as clean water or income derived from sustainable forms of tourism).

Managed Resource Protected Area: protected area managed mainly for the sustainable use of natural ecosystems

Definition
Area containing predominantly unmodified natural systems, managed to ensure long term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.

Objectives of Management
- to protect and maintain the biological diversity and other natural values of the area in the long term;
- to promote sound management practices for sustainable production purposes;
- to protect the natural resource base from being alienated for other land-use purposes that would be detrimental to the area's biological diversity; and to contribute to regional and national development;
- to contribute to regional and national development.

ANNEX 3
Prohibited means of taking

- Snares;
- Live animals used as decoys which are blind or mutilated;
- Tape recorders;
- Electrical devices capable of killing and stunning;
- Artificial light sources;
- Mirrors and other dazzling devices;
- Devices for illuminating targets;
- Sighting devices for night shooting comprising an electronic image magnifier or image converter;
- Explosives;
- Fire;
- Nets (except as specified by the Conference of the Parties);
- Traps;
- Poison and poisoned or anaesthetic bait;
- Gassing or smoking out;
- Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition;
- Aircraft;
- Motor vehicles in motion.

SECTION IV

EXCERPTS OF GLOBAL AND REGIONAL LEGAL INSTRUMENTS

68. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

PREAMBLE

The States Parties to this Convention,
Prompted by the desire to settle, in a spirit of mutual understanding and cooperation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

Noting that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Recognizing the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the achievement of these goals will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared *inter alia* that the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

Believing that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter,

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART V
EXCLUSIVE ECONOMIC ZONE

Article 55
Specific legal regime of the exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56
Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

(b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
  (i) the establishment and use of artificial islands, installations and structures;
  (ii) marine scientific research;
  (iii) the protection and preservation of the marine environment;

(c) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

Article 57
Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 58
Rights and duties of other States in the exclusive economic zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Article 59
Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

Article 60
Artificial islands, installations and structures in the exclusive economic zone

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

(a) artificial islands;

(b) installations and structures for the purposes provided for in article 56 and other economic purposes;

(c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization. Due notice shall be given of the extent of safety zones.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 61
Conservation of the living resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall cooperate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.

4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62
Utilization of the living resources

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

(a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used;

(d) fixing the age and size of fish and other species that may be caught;

(e) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) the placing of observers or trainees on board such vessels by the coastal State;

(h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;

(i) terms and conditions relating to joint ventures or other cooperative arrangements;

j) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;

(k) enforcement procedures.

5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 63
Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 64
Highly migratory species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Part.

Article 65
Marine mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 66
Anadromous stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3(b). The State of origin may, after consultations with the other States referred to in paragraphs 3 and 4 fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3.(a) Fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks.

(b) The State of origin shall cooperate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in subparagraph (b), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall cooperate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 67
Catadromous species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in these zones.

3. In cases where catadromous fish migrate through the exclusive economic zone of another State, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the other State concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 68
Sedentary species

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

Article 69
Right of land-locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(d) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70
Right of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic

zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. For the purposes of this Part, "geographically disadvantaged States" means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.

3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(c) the extent to which other geographically disadvantaged States and land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(d) the nutritional needs of the populations of the respective States.

4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.

5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 71
Non-applicability of articles 69 and 70

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72
Restrictions on transfer of rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.

2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

Article 73
Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Article 74
Delimitation of the exclusive economic zone between States with opposite or adjacent coasts

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 75
Charts and lists of geographical coordinates

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

PART VII
HIGH SEAS
SECTION 1
GENERAL PROVISIONS

Article 86
Application of the provisions of this Part

The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58.

Article 87
Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

(a) freedom of navigation;

(b) freedom of overflight;

(c) freedom to lay submarine cables and pipelines, subject to Part VI;

(d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;

(e) freedom of fishing, subject to the conditions laid down in section 2;

(f) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

Article 88
Reservation of the high seas for peaceful purposes

The high seas shall be reserved for peaceful purposes.

Article 89
Invalidity of claims of sovereignty over the high seas

No State may validly purport to subject any part of the high seas to its sovereignty.

Article 90
Right of navigation

Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.

Article 91
Nationality of ships

1. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

2. Every State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 92
Status of ships

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 93
Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency, flying the flag of the organization.

Article 94
Duties of the flag State

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular every State shall:

(a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and

(b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:

(a) the construction, equipment and seaworthiness of ships;

(b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

(c) the use of signals, the maintenance of communications and the prevention of collisions.

4. Such measures shall include those necessary to ensure:

(a) that each ship, before registration and thereafter at appropriateintervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;

(b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;

(c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.

7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 95
Immunity of warships on the high seas

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 96
Immunity of ships used only on government non-commercial service

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 97
Penal jurisdiction in matters of collision or any other incident of navigation

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 98
Duty to render assistance

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

Article 99
Prohibition of the transport of slaves

Every State shall take effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 100
Duty to cooperate in the repression of piracy

All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 101
Definition of piracy

Piracy consists of any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Article 102
Piracy by a warship, government ship or government aircraft whose crew has mutinied

The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.

Article 103
Definition of a pirate ship or aircraft

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 104
Retention or loss of the nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it

has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 105
Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 106
Liability for seizure without adequate grounds

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft for any loss or damage caused by the seizure.

Article 107
Ships and aircraft which are entitled to seize on account of piracy

A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 108
Illicit traffic in narcotic drugs or psychotropic substances

1. All States shall cooperate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the cooperation of other States to suppress such traffic.

Article 109
Unauthorized broadcasting from the high seas

1. All States shall cooperate in the suppression of unauthorized broadcasting from the high seas.

2. For the purposes of this Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

3. Any person engaged in unauthorized broadcasting may be prosecuted before the court of:

(a) the flag State of the ship;

(b) the State of registry of the installation;

(c) the State of which the person is a national;

(d) any State where the transmissions can be received; or

(e) any State where authorized radio communication is suffering interference.

4. On the high seas, a State having jurisdiction in accordance with paragraph 3 may, in conformity with article 110, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

Article 110
Right of visit

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 95 and 96, is not justified in boarding it unless there is reasonable ground for suspecting that:

(a) the ship is engaged in piracy;

(b) the ship is engaged in the slave trade;

(c) the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under article 109;

(d) the ship is without nationality; or

(e) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

4. These provisions apply *mutatis mutandis* to military aircraft.

5. These provisions also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 111
Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(a) the provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;

(b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 112
Right to lay submarine cables and pipelines

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

2. Article 79, paragraph 5, applies to such cables and pipelines.

Article 113
Breaking or injury of a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 114
Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 115
Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

SECTION 2
CONSERVATION AND MANAGEMENT OF THE LIVING RESOURCES OF THE HIGH SEAS

Article 116
Right to fish on the high seas

All States have the right for their nationals to engage in fishing on the high seas subject to:

(a) their treaty obligations;

(b) the rights and duties as well as the interests of coastal States provided for, *inter ali*a, in article 63, paragraph 2, and articles 64 to 67; and

(c) the provisions of this section.

Article 117
Duty of States to adopt with respect to their nationals measures for the conservation of the living resources of the high seas

All States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 118
Cooperation of States in the conservation and management of living resources

States shall cooperate with each other in the conservation and management of living resources in the areas of the high seas. States whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall, as appropriate, cooperate to establish subregional or regional fisheries organizations to this end.

Article 119
Conservation of the living resources of the high seas

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:

(a) take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned.

3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Article 120
Marine mammals

Article 65 also applies to the conservation and management of marine mammals in the high seas.

PART XI
THE AREA

SECTION 1
GENERAL PROVISIONS

Article 133
Use of terms

For the purposes of this Part:

(a) "resources" means all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the sea-bed, including polymetallic nodules;

(b) resources, when recovered from the Area, are referred to as "minerals".

Article 134
Scope of this part

1. This Part applies to the Area.

2. Activities in the Area shall be governed by the provisions of this Part.

3. The requirements concerning deposit of, and publicity to be given to, the charts or lists of geographical co-ordinates showing the limits referred to in article 1, paragraph 1 (1), are set forth in Part VI. 4. Nothing in this article affects the establishment of the outer limits of the continental shelf in accordance with Part VI or the

validity of agreements relating to delimitation between States with opposite or adjacent coasts.

Article 135
Legal status of the superjacent waters and air space

Neither this Part nor any rights granted or exercised pursuant there to shall affect the legal status of the waters superjacent to the Area or that of the air space above those waters.

SECTION 2
PRINCIPLES GOVERNING THE AREA

Article 136
Common heritage of mankind

The Area and its resources are the common heritage of mankind.

Article 137
Legal status of the Area and its resources

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.

2. All rights in the resources of the Area are vested in mankind as a whole on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.

3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Article 138
General conduct of states in relation to the Area

The general conduct of States in relation to the Area shall be in accordance with the provisions of this Part, the principles embodied in the Charter of the United Nations and other rules of international law in the interests of maintaining peace and security and promoting international co-operation and mutual understanding .

Article 139
Responsibility to ensure compliance and liability for damage

1. States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part. The same responsibility applies to international organizations for activities in the Area carried out by such organizations.

2. Without prejudice to the rules of international law and Annex III, article 22, damage caused by the failure of a State Party or international organization to carry out its responsibilities under this Part shall entail liability, States Parties or international organizations acting together shall bear joint and several liability. A State Party shall not however be liable for damage caused by any failure to comply with this Part by a person whom it has sponsored under article 153, paragraph 2(b), if the State Party has taken all necessary and appropriate measures to secure effective compliance under article 153, paragraph 4, and Annex III, article 4, paragraph 4.

3. States Parties that are members of international organizations shall take appropriate measures to ensure the implementation of this article with respect to such organizations.

Article 140
Benefit of mankind

1. Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.

2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism on a non-discriminatory basis, in accordance with article 160, paragraph 2 (f) (i).

Article 141
Use of the Area exclusively for peaceful purposes

The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination and without prejudice to the other provisions of this Part.

Article 142
Rights and legitimate interests of coastal states

1. Activities in the Area, with respect to resource deposits in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such deposits lie.

2. Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringement of such rights and interests. In cases where activities in the Area may result in the exploitation

of resources lying within national jurisdiction, the prior consent of the coastal State concerned shall be required.

3. Neither this Part nor any rights granted or exercised pursuant there to shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

Article 143
Marine scientific research

1. Marine scientific research in the Area shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole in accordance with Part XIII.

2. The Authority may carry out marine scientific research concerning the Area and its resources, and may enter into contracts for that purpose. The Authority shall promote and encourage the conduct of marine scientific research in the Area, and shall co-ordinate and disseminate the results of such research and analysis when available.

3. States Parties may carry out marine scientific research in the Area. States Parties shall promote international co-operation in marine scientific research in the Area by:

(a) participating in international programmes and encouraging co-operation in marine scientific research by personnel of different countries and of the Authority;

(b) ensuring that programmes are developed through the Authority or other international organizations as appropriate for the benefit of developing States and technologically less developed States with a view to:
  (i) strengthening their research capabilities;
  (ii) training their personnel and the personnel of the Authority in the techniques and applications of research;
  (iii) fostering the employment of their qualified personnel in research in the Area;

(c) effectively disseminating the results of research and analysis when available, through the Authority or other international channels when appropriate.

Article 144
Transfer of technology

1. The Authority shall take measures in accordance with this Convention:

(a) to acquire technology and scientific knowledge relating to activities in the Area; and

(b) to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States Parties benefit therefrom.

2. To this end the Authority and States Parties shall cooperate in promoting the transfer of technology and scientific knowledge relating to activities in the Area so that the Enterprise and all States Parties may benefit therefrom. In particular they shall initiate and promote:

(a) programmes for the transfer of technology to the Enterprise and to developing States with regard to activities in the Area, including, inter alia, facilitating the access of the Enterprise and of developing States to the relevant technology, under fair and reasonable terms and conditions;

(b) measures directed towards the advancement of the technology of the Enterprise and the domestic technology of developing States, particularly by providing opportunities to personnel from the Enterprise and from developing States for training in marine science and technology and for their full participation in activities in the Area.

Article 145
Protection of the marine environment

Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for inter alia:

(a) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Article 146
Protection of human life

With respect to activities in the Area, necessary measures shall be taken to ensure effective protection of human life. To this end the Authority shall adopt appropriate rules, regulations and procedures to supplement existing international law as embodied in relevant treaties.

Article 147
Accommodation of activities in the Area and in the marine environment

1. Activities in the Area shall be carried out with reasonable regard for other activities in the marine environment.

2. Installations used for carrying out activities in the Area shall be subject to the following conditions:

(a) such installations shall be erected, emplaced and removed solely in accordance with this Part and subject to the rules, regulations and procedures of the Authority. Due notice must be given of the erection, emplacement and removal of such installations, and permanent means for giving warning of their presence must be maintained;

(b) such installations may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity;

(c) safety zones shall be established around such installations with appropriate markings to ensure the safety of both navigation and the installations. The configuration and location of such safety zones shall not be such as to form a belt impeding the lawful access of shipping to particular maritime zones or navigation along international sea lanes;

(d) such installations shall be used exclusively for peaceful purposes;

(e) such installations do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

3. Other activities in the marine environment shall be conducted with reasonable regard for activities in the Area.

Article 148
Participation of developing states in activities in the Area

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in this Part, having due regard to their special interests and needs, and in particular to the special need of the landlocked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it.

Article 149
Archaeological and historical objects

All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.

SECTION 3
DEVELOPMENT OF RESOURCES OF THE AREA

Article 150
Policies relating to activities in the Area

Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the over-all development of all countries, especially developing States, and with a view to ensuring:

(a) the development of the resources of the Area;

(b) orderly, safe and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste;

(c) the expansion of opportunities for participation in such activities consistent in particular with articles 144 and 148;

(d) participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in this Convention;

(e) increased availability of the minerals derived from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals;

(f) the promotion of just and stable prices remunerative to producers and fair to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand;

(g) the enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of monopolization of activities in the Area;

(h) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, as provided in article 151;

(i) the development of the common heritage for the benefit of mankind as a whole; and

(j) conditions of access to markets for the imports of minerals produced from the resources of the Area and for imports of commodities produced from such minerals shall not be more favourable than the most favourable applied to imports from other sources.

Article 151
Production policies

1.(a) Without prejudice to the objectives set forth in article 150 and for the purpose of implementing subparagraph (h) of that article, the Authority, acting through existing forums or such new arrangements or agreements as may be appropriate, in which all interested parties, including both producers and consumers, participate, shall take measures necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the Area, at prices remunerative to producers and fair to consumers. All States Parties shall co-operate to this end.

(b) The Authority shall have the right to participate in any commodity conference dealing with those commodities and in which all interested parties including both producers and consumers participate. The Authority shall have the right to become a party to any arrangement or agreement resulting from such conferences. Participation of the Authority in any organs established under those arrangements or agreements shall be in respect of production in the Area and in accordance with the relevant rules of those organs.

(c) The Authority shall carry out its obligations under the arrangements or agreements referred to in this paragraph in a manner which assures a uniform and non-discriminatory implementation in respect of all production in the Area of the minerals concerned. In doing so, the Authority shall act in a manner consistent with the terms of existing contracts and approved plans of work of the Enterprise.

2.(a) During the interim period specified in paragraph 3, commercial production shall not be undertaken pursuant to an approved plan of work until the operator has applied for and has been issued a production authorization by the Authority. Such production authorizations may not be applied for or issued more than five years prior to the planned commencement of commercial production under the plan of work unless, having regard to the nature and timing of project development, the rules, regulations and procedures of the Authority prescribe another period.

(b) In the application for the production authorization, the operator shall specify the annual quantity of nickel expected to be recovered under the approved plan of work. The application shall include a schedule of expenditures to be made by the operator after he has received the authorization which are reasonably calculated to allow him to begin commercial production on the date planned.

(c) For the purposes of subparagraphs (a) and (b), the Authority shall establish appropriate performance requirements in accordance with Annex III, article 17.

(d) The Authority shall issue a production authorization for the level of production applied for unless the sum of that level and the levels already authorized exceeds the nickel production ceiling, as calculated pursuant to paragraph 4 in the year of issuance of the authorization, during any year of planned production falling within the interim period.

(e) When issued, the production authorization and approved application shall become a part of the approved plan of work.

(f) If the operator's application for a production authorization is denied pursuant to subparagraph (d), the operator may apply again to the Authority at any time.

3. The interim period shall begin five years prior to 1 January of the year in which the earliest commercial production is planned to commence under an approved plan of work. If the earliest commercial production is delayed beyond the year originally planned, the beginning of the interim period and the production ceiling originally calculated shall be adjusted accordingly. The interim period shall last 25 years or until the end of the Review Conference referred to in article 155 or until the day when such new arrangements or agreements as are referred to in paragraph 1 enter into force, whichever is earliest. The Authority shall resume the power provided in this article for the remainder of the interim period if the said arrangements or agreements should lapse or become ineffective for any reason whatsoever.

4.(a) The production ceiling for any year of the interim period shall be the sum of:

(i) the difference between the trend line values for nickel consumption as calculated pursuant to subparagraph (b), for the year immediately prior to the year of the earliest commercial production and the year immediately prior to the commencement of the interim period; and

(ii) sixty per cent of the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (b), for the year for which the production authorization is being applied for and the year immediately prior to the year of the earliest commercial production.

(b) For the purposes of subparagraph (a):
(i) trend line values used for computing the nickel production ceiling shall be those annual nickel consumption values on a trend line computed during the year in which a production authorization is issued. The trend line shall be derived from a linear regression of the logarithms of actual nickel consumption for the most recent 15-year period for which such data are available, time being the independent variable. This trend line shall be referred to as the original trend line;
(ii) if the annual rate of increase of the original trend line is less than 3 per cent, then the trend line used to determine the quantities referred to in subparagraph (a) shall instead be one passing through the original trend line at the value for the first year of the relevant 15-year period, and increasing at 3 per cent annually; provided however that the production ceiling established for any year of the interim period may not in any case exceed the difference between the original trend line value for that year and the original trend line value for the year immediately prior to the commencement of the interim period.

5. The Authority shall reserve to the Enterprise for its initial production a quantity of 38,000 metric tonnes of nickel from the available production ceiling calculated pursuant to paragraph 4.

6.(a) An operator may in any year produce less than or up to 8 per cent more than the level of annual production of minerals from polymetallic nodules specified in his production authorization, provided that the over-all amount of production shall not exceed that specified in the authorization. Any excess over 8 per cent and up to 20 per cent in any year, or any excess in the first and subsequent years following two consecutive years in which excesses occur, shall be negotiated with the Authority, which may require the operator to obtain a supplementary production authorization to cover additional production.

(b) Applications for such supplementary production authorizations shall be considered by the Authority only after all pending applications by operators who have not yet received production authorizations have been acted upon and due account has been taken of other likely applicants. The Authority shall be guided by the principle of not exceeding the total production allowed under the production ceiling in any year of the interim period. It shall not authorize the production under any plan of work of a quantity in excess of 46,500 metric tonnes of nickel per year.

7. The levels of production of other metals such as copper, cobalt and manganese extracted from the polymetallic nodules that are recovered pursuant to a production authorization should not be higher than those which would have been produced had the operator produced the maximum level of nickel from those nodules pursuant to this article. The Authority shall establish rules, regulations and procedures pursuant to Annex III, article 17, to implement this paragraph.

8. Rights and obligations relating to unfair economic practices under relevant multilateral trade agreements shall apply to the exploration for and exploitation of minerals from the Area. In the settlement of disputes arising under this provision, States Parties which are Parties to such multilateral trade agreements shall have recourse to the dispute settlement procedures of such agreements.

9. The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from polymetallic nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 8.

10. Upon the recommendation of the Council on the basis of advice from the Economic Planning Commission, the Assembly shall establish a system of compensation or take other measures of economic adjustment assistance including co-operation with specialized agencies and other international organizations to assist developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. The Authority on request shall initiate studies on the problems out house States which are likely to be most seriously affected with a view to minimizing their difficulties and assisting them in their economic adjustment.

Article 152
Exercise of powers and functions by the Authority

1. The Authority shall avoid discrimination in the exercise of its powers and functions, including the granting of opportunities for activities in the Area.

2. Nevertheless, special consideration for developing States, including particular consideration for the land-locked and geographically disadvantaged among them, specifically provided for in this Part shall be permitted.

Article 153
System of exploration and exploitation

1. Activities in the Area shall be organized, carried out and controlled by the Authority on behalf of mankind as a whole in accordance with this article as well as other relevant provisions of this Part and the relevant Annexes, and the rules, regulations and procedures of the Authority.

2. Activities in the Area shall be carried out as prescribed in paragraph 3:

(a) by the Enterprise, and

(b) in association with the Authority by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements provided in this Part and in Annex III.

3. Activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III and approved by the Council after review by the Legal and Technical Commission. In the cast off activities in the Area carried out as authorized by the Authority by the entities specified in paragraph 2(b), the plan of work shall, in accordance with Annex III, article 3, be in the form of a contract. Such contracts may provide for joint arrangements in accordance with Annex III, article 11.

4. The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part and the Annexes relating thereto, and the rules, regulations and procedures of the Authority, and the plans of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139.

5. The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it there under or under any contract. The Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area.

6. A contract under paragraph 3 shall provide for security of tenure. Accordingly, the contract shall not be revised, suspended or terminated except in accordance with Annex III, articles 18 and 19.

Article 154
Periodic review

Every five years from the entry into force of this Convention, the Assembly shall undertake a general and systematic review of the manner in which the international regime of the Area established in this Convention has operated in practice. In the light of this review the Assembly may take, or recommend that other organs take, measures in accordance with the provisions and procedures of this Part and the Annexes relating there to which will lead to the improvement of the operation of the regime.

Article 155
The review conference

1. Fifteen years from 1 January of the year in which the earliest commercial production commences under an approved plan of work, the Assembly shall convene a conference for the review of those provisions of this Part and the relevant Annexes which govern the system of exploration and exploitation of the resources of the Area. The Review Conference shall consider in detail, in the light of the experience acquired during that period:

(a) whether the provisions of this Part which govern the system of exploration and exploitation of the resources of the Area have achieved their aims in all respects, including whether they have benefited mankind as a whole;

(b) whether, during the 15-year period, reserved areas have been exploited in an effective and balanced manner in comparison with non-reserved areas;

(c) whether the development and use of the Area and its resources have been undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade;

(d) whether monopolization of activities in the Area has been prevented;

(e) whether the policies set forth in articles 150 and 151 have been fulfilled; and

(f) whether the system has resulted in the equitable sharing of benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing States.

2. The Review Conference shall ensure the maintenance of the principle of the common heritage of mankind, the international regime designed to ensure equitable exploitation of the resources of the Area for the benefit of all countries, especially the developing States, and an Authority to organize, conduct and control activities in the Area. It shall also ensure the maintenance of the principles laid down in this Part with regard to the exclusion of claims or exercise of sovereignty over any part of the Area, the rights of States and their general conduct in relation to the Area, and their participation in activities in the Area in conformity with this Convention, the prevention of monopolization of activities in the Area, the use of the Area exclusively for peaceful purposes, economic aspects of activities in the Area, marine scientific research, transfer of technology, protection of the marine environment, protection of human life, rights of coastal States, the legal status of the waters superjacent to the Area and that of the air space above those waters and accommodation between activities in the Area and other activities in the marine environment.

3. The decision-making procedure applicable at the Review Conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea. The Conference shall make every effort to reach agreement on any amendments by way of consensus and there should be no voting on such matters until all efforts at achieving consensus have been exhausted.

4. If, five years after its commencement, the Review Conference has not reached agreement on the system of exploration and exploitation of the resources of the Area, it may decide during the ensuing 12 months, by a three-fourths majority of the States Parties, to adopt and submit to the States Parties for ratification or accession such amendments changing or modifying the system as it determines necessary and appropriate. Such amendments shall enter into force for all States Parties 12 months after the deposit of instruments of ratification or accession by three fourths of the States Parties.

5. Amendments adopted by the Review Conference pursuant to this article shall not affect rights acquired under existing contracts.

SECTION 4
THE AUTHORITY

SUBSECTION A
GENERAL PROVISIONS

Article 156
Establishment of the Authority

1. There is hereby established the International Sea-Bed Authority, which shall function in accordance with this Part.

2. All States Parties are ipso facto members of the Authority.

3. Observers at the Third United Nations Conference on the Law of the Sea who have signed the Final Act and who are not referred to in article 305, paragraph 1 (c), (d), (e) or (f), shall have the right to participate in the Authority as observers, in accordance with its rules, regulations and procedures.

4. The seat of the Authority shall be in Jamaica.

5. The Authority may establish such regional centres or offices as it deems necessary for the exercise of its functions.

Article 157
Nature and fundamental principles of the Authority

1. The Authority is the organization through which States Parties shall, in accordance with this Part, organize and control activities in the Area, particularly with a view to administering the resources of the Area.

2. The powers and functions of the Authority shall be those expressly conferred upon it by this Convention. The Authority shall have such incidental powers, consistent with this Convention, as are implicit in and necessary for the exercise of those powers and functions with respect to activities in the Area.

3. The Authority is based on the principle of the sovereign equality of all its members.

4. All members of the Authority shall fulfil in good faith the obligations assumed by them in accordance with this Part in order to ensure to all of them the rights and benefits resulting from membership.

Article 158
ORGANS OF THE AUTHORITY

1. There are hereby established, as the principal organs of the Authority, an Assembly, a Council and a Secretariat.

2. There is hereby established the Enterprise, the organ through which the Authority shall carry out the functions referred to in article 170, paragraph 1.

3. Such subsidiary organs as may be found necessary may be established in accordance with this Part.

4. Each principal organ of the Authority and the Enterprise shall be responsible for exercising those powers and functions which are conferred upon it. In exercising such powers and functions each organ shall avoid taking any action which may derogate from or impede the exercise of specific powers and functions conferred upon another organ.

SUBSECTION B
THE ASSEMBLY

Article 159
Composition, procedure and voting

1. The Assembly shall consist of all the members of the Authority. Each member shall have one representative in the Assembly, who may be accompanied by alternates and advisers.

2. The Assembly shall meet in regular annual sessions and in such special sessions as may be decided by the Assembly, or convened by the Secretary-General at the request of the Council or of a majority of the members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise decided by the Assembly.

4. The Assembly shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its President and such other officers as may be required. They shall hold office until a new President and other officers are elected at the next regular session.

5. A majority of the members of the Assembly shall constitute a quorum.

6. Each member of the Assembly shall have one vote.

7. Decisions on questions of procedure, including decisions to convene special sessions of the Assembly, shall be taken by a majority of the members present and voting.

8. Decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members participating in the session. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Assembly by the majority required for decisions on questions of substance.

9. When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Assembly, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.

10. Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with this Convention of a proposal before the Assembly on any matter, the Assembly shall request the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

Article 160
Powers and functions

1. The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority.

2. In addition, the powers and functions of the Assembly shall be:

(a) to elect the members of the Council in accordance with article 161;

(b) to elect the Secretary-General from among the candidates proposed by the Council;

(c) to elect, upon the recommendation of the Council, the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(d) to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of these subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs;

(e) to assess the contributions of members to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses;

(f) (i) to consider and approve, upon the recommendation of the Council the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status. If the Assembly does not approve the recommendations of the Council, the Assembly shall return them to the Council for reconsideration in the light of the views expressed by the Assembly;
(ii) to consider and approve the rules, regulations and procedures of the Authority, and any amendments thereto, provisionally adopted by the Council pursuant to article 162, paragraph 2 (o)(ii). These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area, the financial management and internal administration of the Authority, and, upon the recommendation of the Governing Board of the Enterprise, to the transfer of funds from the Enterprise to the Authority;

(g) to decide upon the equitable sharing of financial and other economic benefits derived from activities in the Area, consistent with this Convention and the rules, regulations and procedures of the Authority;

(h) to consider and approve the proposed annual budget of the Authority submitted by the Council;

(i) to examine periodic reports from the Council and from the Enterprise and special reports requested from the Council or any other organ of the Authority;

(j) to initiate studies and make recommendations for the purpose of promoting international co-operation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;

(k) to consider problems of a general nature in connection with activities in the Area arising in particular for developing States, as well as those problems for States in connection with activities in the Area that are due to their geographical location, particularly for land-locked and geographically disadvantaged States;

(l) to establish, upon the recommendation of the Council, on the basis of advice from the Economic Planning Commission, a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;

(m) to suspend the exercise of rights and privileges of membership pursuant to article 185;

(n) to discuss any question or matter within the competence of the Authority and to decide as to which organ of the Authority shall deal with any such question or matter not specifically entrusted to a particular organ, consistent with the distribution of powers and functions among the organs of the Authority.

SUBSECTION C
THE COUNCIL

Article 161
Composition, procedure and voting

1. The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:

(a) four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent of total world consumption or have had net imports of more than 2 per cent of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one State from the Eastern European (Socialist) region, as well as the largest consumer;

(b) four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals, including at least one State from the Eastern European (Socialist) region; (c) four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;

(c) six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals, and least developed States;

(d) eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.

2. In electing the members of the Council in accordance with paragraph 1, the Assembly shall ensure that:

(a) land-locked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(b) coastal States, especially developing States, which do not qualify under paragraph 1 (a), (b), (c) or (d) are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(c) each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by that group.

3. Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in paragraph 1 shall be two years.

4. Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.

5. The Council shall function at the seat of the

Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.

6. A majority of the members of the Council shall constitute a quorum.

7. Each member of the Council shall have one vote.

8.(a) Decisions on questions of procedure shall be taken by a majority of the members present and voting.

(b) Decisions on questions of substance arising under the following provisions shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (f); (g); (h); (i); (n); (p); (v); article 191.

(c) Decisions on questions of substance arising under the following provisions shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (a); (b); (c); (d); (e); (I); (q); (r); (s); (t); (u) in cases of non-compliance by a contractor or a sponsor; (w) provided that orders issued thereunder may be binding for not more than 30 days unless confirmed by a decision taken in accordance with subparagraph (d); article 162, paragraph 2, subparagraphs (x); (y); (z); article 163, paragraph 2; article 174, paragraph 3; Annex IV, article 11.

(d) Decisions on questions of substance arising under the following provisions shall be taken by consensus: article 162, paragraph 2(m) and (o); adoption of amendments to Part XI.

(e) For the purposes of subparagraphs (d), (f) and (g), "consensus" means the absence of any formal objection. Within 14 days of the submission of a proposal to the Council, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within 14 days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.

(f) Decisions on questions not listed above which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the subparagraphs of this paragraph specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the subparagraph determined by the Council if possible in advance, by consensus.

(g) When the issue arises as to whether a question is within subparagraph (a), (b), (c) or (d), the question shall be treated as being within the subparagraph requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.

9. The Council shall establish a procedure whereby a member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

Article 162
Powers And Functions

1. The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with this Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.

2. In addition, the Council shall:

(a) supervise and co-ordinate the implementation of the provisions of this Part on all questions and matters within the competence of the Authority and invite the attention of the Assembly to cases of non-compliance;

(b) propose to the Assembly a list of candidates for the election of the Secretary-General;

(c) recommend to the Assembly candidates for the election of the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(d) establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs provided that due account shall be taken of the principle of equitable geographical distribution and of special interests;

(e) adopt its rules of procedure including the method of selecting its president;

(f) enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly;

(g) consider the reports of the Enterprise and transmit them to the Assembly with its recommendations;

(h) present to the Assembly annual reports and such special reports as the Assembly may request;

(i) issue directives to the Enterprise in accordance with article 170;

(j) approve plans of work in accordance with Annex III, article 6. The Council shall act upon each plan of work within 60 days of its submission by the Legal and Technical Commission at a session of the Council in accordance with the following procedures:
  (i) if the Commission recommends the approval of a plan of work, it shall be deemed to have been approved by the Council if no member of the Council submits in writing to the President within 14 days a specific objection alleging non-compliance with the requirements of Annex III, article 6. If there is an objection, the conciliation procedure set forth in article 161, paragraph 8(e), shall apply. If, at the end of the conciliation procedure, the objection is still maintained, the plan of work shall be deemed to have been approved by the Council unless the Council disapproves it by consensus among its members excluding any State or States making the application or sponsoring the applicant;
  (ii) if the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may approve the plan of work by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members participating in the session;

(k) approve plans of work submitted by the Enterprise in accordance with Annex IV, article 12, applying, mutatis mutandis, the procedures set forth in subparagraph (j);

(l) exercise control over activities in the Area in accordance with article 153, paragraph 4, and the rules, regulations and procedures of the Authority;

(m) take, upon the recommendation of the Economic Planning Commission, necessary and appropriate measures in accordance with article 150, subparagraph (h), to provide protection from the adverse economic effects specified therein;

(n) make recommendations to the Assembly, on the basis of advice from the Economic Planning Commission, for a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;
  (i) recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of the developing States and peoples who have not attained full independence or other self-governing status;
  (ii) adopt and apply provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area and the financial management and internal administration of the Authority. Priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules. Rules, regulations and procedures for the exploration for and exploitation of any resource other than polymetallic nodules shall be adopted within three years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource. All rules, regulations and procedures shall remain in effect on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly;

(p) review the collection of all payments to be made by or to the Authority in connection with operations pursuant to this Part;

(q) make the selection from among applicants for production authorizations pursuant to Annex III, article 7, where such selection is required by that provision;

(r) submit the proposed annual budget of the Authority to the Assembly for its approval;

(s) make recommendations to the Assembly concerning policies on any question or matter within the competence of the Authority;

(t) make recommendations to the Assembly concerning suspension of the exercise of the rights and privileges of membership pursuant to article 185;

(u) institute proceedings on behalf of the Authority before the Sea-Bed Disputes Chamber in cases of non-compliance;

(v) notify the Assembly upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted under subparagraph (u), and make any recommendations which it may find appropriate with respect to measures to be taken;

(w) issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;

(x) disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(y) establish a subsidiary organ for the elaboration of draft financial rules, regulations and procedures relating to:
   (i) financial management in accordance with articles 171 to 175; and
   (ii) financial arrangements in accordance with Annex III, article 13 and article 17, paragraph 1 (c);

(z) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with.

Article 163
Organs of the Council

1. There are hereby established the following organs of the Council:

(a) an Economic Planning Commission;

(b) a Legal and Technical Commission.

2. Each Commission shall be composed of 15 members, elected by the Council from among the candidates nominated by the States Parties. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency.

3. Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions.

4. In the election of members of the Commissions, due account shall betaken of the need for equitable geographical distribution and the representation of special interests.

5. No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission.

6. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term.

7. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of the term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest.

8. Members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commissions upon which they serve, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

9. Each Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt.

10. Each Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions.

11. The decision-making procedures of the Commissions shall be established by the rules, regulations and procedures of the Authority. Recommendations to the Council shall, where necessary, be accompanied by a summary on the divergencies of opinion in the Commission.

12. Each Commission shall normally function at the seat of the Authority and shall meet as often as is required for the efficient exercise of its functions.

13. In the exercise of its functions, each Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation.

Article 164
The Economic Planning Commission

1. Members of the Economic Planning Commission shall have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies.

2. The Commission shall:

(a) propose, upon the request of the Council, measures to implement decisions relating to activities in the Area taken in accordance with this Convention;

(b) review the trends of and the factors affecting supply, demand and prices of materials which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them;

(c) examine any situation likely to lead to the adverse effects referred to in article 150, subparagraph (h), brought to its attention by the State Party or States Parties concerned, and make appropriate recommendations to the Council;

(d) propose to the Council for submission to the Assembly, as provided in article 151, paragraph 10, a system of compensation or other measures of economic adjustment assistance for developing States which suffer adverse effects caused by activities in the Area. The Commission shall make the recommendations to the Council that are necessary for the application of the system or other measures adopted by the Assembly in specific cases.

Article 165
The Legal and Technical Commission

1. Members of the Legal and Technical Commission shall have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.

2. The Commission shall:

(a) make recommendations with regard to the exercise of the Authority's functions upon the request of the Council;

(b) review formal written plans of work for activities in the Area in accordance with article 153, paragraph 3, and submit appropriate recommendations to the Council. The Commission shall base its recommendations solely on the grounds stated in Annex III and shall report fully thereon to the Council;

(c) supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or State or States concerned and report to the Council;

(d) prepare assessments of the environmental implications of activities in the Area;

(e) make recommendations to the Council on the protection of the marine environment, taking into account the views of recognized experts in that field;

(f) formulate and submit to the Council the rules regulations and procedures referred to in article 162, paragraph 2(o) taking into account all relevant factors including assessments of the environmental implications of activities in the Area;

(g) keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;

(h) make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure evaluate and analyse by recognized scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and co-ordinate the implementation of the monitoring programme approved by the Council;

(i) recommend to the Council that proceedings be instituted on behalf of the Authority before the Sea-Bed Disputes Chamber, in accordance with this Part and the relevant Annexes taking into account particularly article 187;

(j) make recommendations to the Council with respect to measures to be taken, upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted in accordance with subparagraph (i);

(k) make recommendations to the Council to issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area. Such

recommendations shall be taken up by the Council on a priority basis;

(l) make recommendations to the Council to disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(m) make recommendations to the Council regarding the direction and supervision of a staff of inspectors who shall inspect activities in the Area to determine whether the provisions of this Part, the rules, regulations and procedures of the Authority and the terms and conditions of any contract with the Authority are being complied with;

(n) calculate the production ceiling and issue production authorizations on behalf of the Authority pursuant to article 151, paragraphs 2 to 7, following any necessary selection among applicants for production authorizations by the Council in accordance with Annex III, article 7.

3. The members of the Commission shall, upon request by any State Party or other party concerned, be accompanied by a representative of such State or other party concerned when carrying out their function of supervision and inspection.

SECTION 4
THE AUTHORITY

SUBSECTION D
THE SECRETARIAT

Article 166
The Secretariat

1. The Secretariat of the Authority shall comprise a Secretary-General and such staff as the Authority may require.

2. The Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.

3. The Secretary-General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary-General by these organs.

4. The Secretary-General shall make an annual report to the Assembly on the work of the Authority.

Article 167
The staff of the Authority

1. The staff of the Authority shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority.

2. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

3. The staff shall be appointed by the Secretary-General. The terms and conditions on which they shall be appointed, remunerated and dismissed shall be in accordance with the rules, regulations and procedures of the Authority.

Article 168
International character of the Secretariat

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. Any violation of responsibilities by a staff member shall be submitted to the appropriate administrative tribunal as provided in the rules, regulations and procedures of the Authority.

2. The Secretary-General and the staff shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

3. Violations of the obligations of a staff member of the Authority set forth in paragraph 2 shall, on the request of a State Party affected by such violation, or a natural or juridical person, sponsored by a State Party as provided in article 153, paragraph 2(b), and affected by such violation, be submitted by the Authority against the staff member concerned to a tribunal designated by the rules, regulations and procedures of the Authority. The Party affected shall have the right to take part in the proceedings. If the tribunal so recommends, the Secretary-General shall dismiss the staff member concerned.

4. The rules, regulations and procedures of the Authority shall contain such provisions as are necessary to implement this article.

Article 169
Consultation and co-operation with international and non-governmental organizations

1. The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and co-operation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations.

2. Any organization with which the Secretary-General has entered into an arrangement under paragraph 1 may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of these organs. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

3. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in paragraph 1 on subjects in which they have special competence and which are related to the work of the Authority.

SUBSECTION E
THE ENTERPRISE

Article 170
The Enterprise

1. The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2(a),as well as the transporting, processing and marketing of minerals recovered from the Area.

2. The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is provided for in the Statute set forth in Annex IV. The Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority, as well as the general policies established by the Assembly, and shall be subject to the directives and control of the Council.

3. The Enterprise shall have its principal place of business at the seat of the Authority.

4. The Enterprise shall, in accordance with article 173, paragraph 2, and Annex IV, article 11, be provided with such funds as it may require to carry out its functions, and shall receive technology as provided in article 144 and other relevant provisions of this Convention.

SUBSECTION F
FINANCIAL ARRANGEMENTS OF THE AUTHORITY

Article 171
Funds of the Authority

The funds of the Authority shall include:

(a) assessed contributions made by members of the Authority in accordance with article 160, paragraph 2(e);

(b) funds received by the Authority pursuant to Annex III, article 13, in connection with activities in the Area;

(c) funds transferred from the Enterprise in accordance with Annex IV, article 10; (d) funds borrowed pursuant to article 174;

(d) voluntary contributions made by members or other entities; and

(e) payments to a compensation fund, in accordance with article 151, paragraph 10, whose sources are to be recommended by the Economic Planning Commission.

Article 172
Annual Budget of the Authority

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council. The Council shall consider the proposed annual budget and submit it to the Assembly, together with any recommendations thereon. The Assembly shall consider and approve the proposed annual budget in accordance with article 160, paragraph 2(h).

Article 173
Expenses of the Authority

1. The contributions referred to in article 171, subparagraph (a), shall be paid into a special account to meet the administrative expenses of the Authority until the Authority has sufficient funds from other sources to meet those expenses.

2. The administrative expenses of the Authority shall be a first call upon the funds of the Authority. Except for the assessed contributions referred to in article 171, subparagraph (a), the funds which remain after payment of administrative expenses may, inter alia:

(a) be shared in accordance with article 140 and article 160, paragraph 2(g);

(b) be used to provide the Enterprise with funds in accordance with article 170, paragraph 4;

(c) be used to compensate developing States in accordance with article 151, paragraph 10, and article 160, paragraph 2(1).

Article 174
Borrowing Power of the Authority

1. The Authority shall have the power to borrow funds.

2. The Assembly shall prescribe the limits on the borrowing power of the Authority in the financial regulations adopted pursuant to article 160, paragraph 2(f).

3. The Council shall exercise the borrowing power of the Authority.

4. States Parties shall not be liable for the debts of the Authority.

Article 175
Annual Audit

The records, books and accounts of the Authority, including its annual financial statements, shall be audited annually by an independent audit or appointed by the Assembly.

SUBSECTION G
LEGAL STATUS, PRIVILEGES AND IMMUNITIES

Article 176
Legal Status

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 177
Privileges and Immunities

To enable the Authority to exercise its functions, it shall enjoy in the territory of each State Party the privileges and immunities set forth in this subsection. The privileges and immunities relating to the Enterprise shall be those set forth in Annex IV, article 13.

Article 178
Immunity from Legal Process

The Authority, its property and assets, shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case.

Article 179
Immunity from search and any form of seizure

The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Article 180
Exemption from restrictions, regulations, controls and moratoria

The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature.

Article 181
Archives and official communications of the authority

1. The archives of the Authority, wherever located, shall be inviolable.

2. Proprietary data, industrial secrets or similar information and personnel records shall not be placed in archives which are open to public inspection.

3. With regard to its official communications, the Authority shall be accorded by each State Party treatment no less favourable than that accorded by that State to other international organizations.

Article 182
Privileges and immunities of certain persons connected with the authority

Representatives of States Parties attending meetings of the Assembly, the Council or organs of the Assembly or the Council, and the Secretary-General and staff of the Authority, shall enjoy in the territory of each State Party:

(a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or the Authority, as appropriate, expressly waives this immunity in a particular case;

(b) if they are not nationals of that State Party, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by that State to the representatives, officials and employees of comparable rank of other States Parties.

Article 183
Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by this Convention, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by States Parties to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption provided for in this article shall not be sold or

otherwise disposed of in the territory of the State Party which granted the exemption, except under conditions agreed with that State Party.

3. No tax shall be levied by States Parties on or in respect of salaries and emoluments paid or any other form of payment made by the Authority to the Secretary-General and staff of the Authority, as well as experts performing missions for the Authority, who are not their nationals.

SUBSECTION H
SUSPENSION OF THE EXERCISE OF RIGHTS AND PRIVILEGES OF MEMBERS

Article 184
Suspension of the exercise of voting rights

A State Party which is in arrears in the payment of its financial contributions to the Authority shall have no vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 185
Suspension of exercise of rights and privileges of membership

1. A State Party which has grossly and persistently violated the provisions of this Part may be suspended from the exercise of the rights and privileges of membership by the Assembly upon the recommendation of the Council.

2. No action may be taken under paragraph 1 until the Sea-Bed Disputes Chamber has found that a State Party has grossly and persistently violated the provisions of this Part.

SECTION 5
SETTLEMENT OF DISPUTES AND ADVISORY OPINIONS

Article 186
Sea-Bed Disputes Chamber of the international tribunal for the law of the sea

The establishment of the Sea-Bed Disputes Chamber and the manner in which it shall exercise its jurisdiction shall be governed by the provisions of this section, of Part XV and of Annex VI.

Article 187
Jurisdiction of the Sea-Bed Disputes Chamber

The Sea-Bed Disputes Chamber shall have jurisdiction under this Part and the Annexes relating thereto in disputes with respect to activities in the Area falling within the following categories:

(a) disputes between States Parties concerning the interpretation or application of this Part and the Annexes relating thereto;

(b) disputes between a State Party and the Authority concerning:
   (i) acts or omissions of the Authority or of a State Party alleged to be in violation of this Part or the Annexes relating thereto or of rules, regulations and procedures of the Authority adopted in accordance therewith; or
   (ii) acts of the Authority alleged to be in excess of jurisdiction or a misuse of power;

(c) disputes between parties to a contract, being States Parties, the Authority or the Enterprise, state enterprises and natural or juridical persons referred to in article 153, paragraph 2 (b), concerning:
   (i) the interpretation or application of a relevant contract or a plan of work; or
   (ii) acts or omissions of a party to the contract relating to activities in the Area and directed to the other party or directly affecting its legitimate interests;

(d) disputes between the Authority and a prospective contractor who has been sponsored by a State as provided in article 153, paragraph 2 (b), and has duly fulfilled the conditions referred to in Annex III, article 4, paragraph 6, and article 13, paragraph 2, concerning the refusal of a contract or a legal issue arising in the negotiation of the contract;

(e) disputes between the Authority and a State Party, a state enterprise or a natural or juridical person sponsored by a State Party as provided for in article 153, paragraph 2(b), where it is alleged that the Authority has incurred liability as provided in Annex III, article 22;

(f) any other disputes for which the jurisdiction of the Chamber is specifically provided in this Convention.

Article 188
Submission of disputes to a special chamber of the International Tribunal for the law of the sea or an ad hoc chamber of the Sea-Bed Disputes Chamber or to binding commercial arbitration

1. Disputes between States Parties referred to in article 187, subparagraph(a), may be submitted:

(a) at the request of the parties to the dispute, to a special chamber of the International Tribunal for the Law of the Sea to be formed in accordance with Annex VI, articles 15 and 17; or

(b) at the request of any party to the dispute, to an ad hoc chamber of the Sea-Bed Disputes Chamber to be formed in accordance with Annex VI, article 36.

2.(a) Disputes concerning the interpretation or application of a contract referred to in article 187, subparagraph (c) (i), shall be submitted, at the

request of any party to the dispute, to binding commercial arbitration, unless the parties otherwise agree. A commercial arbitral tribunal to which the dispute is submitted shall have no jurisdiction to decide any question of interpretation of this Convention. When the dispute also involves a question of the interpretation of Part XI and the Annexes relating thereto, with respect to activities in the Area, that question shall be referred to the Sea-Bed Disputes Chamber for a ruling.

(b) If, at the commencement of or in the course of such arbitration, the arbitral tribunal determines, either at the request of any party to the dispute or proprio motu, that its decision depends upon a ruling of the Sea-Bed Disputes Chamber, the arbitral tribunal shall refer such question to the Sea-Bed Disputes Chamber for such ruling. The arbitral tribunal shall then proceed to render its award in conformity with the ruling of the Sea Bed Disputes Chamber.

(c) In the absence of a provision in the contract on the arbitration procedure to be applied in the dispute, the arbitration shall be conducted in accordance with the UNCITRAL Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority, unless the parties to the dispute otherwise agree.

Article 189
Limitation on jurisdiction with regard to decisions of the Authority

The Sea-Bed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part; in no case shall it substitute its discretion for that of the Authority. Without prejudice to article 191, in exercising its jurisdiction pursuant to article 187, the Sea-Bed Disputes Chamber shall not pronounce itself on the question of whether any rules, regulations and procedures of the Authority are in conformity with this Convention, nor declare invalid any such rules, regulations and procedures. Its jurisdiction in this regard shall be confined to deciding claims that the application of any rules, regulations and procedures of the Authority in individual cases would be in conflict with the contractual obligations of the parties to the dispute or their obligations under this Convention, claims concerning excess of jurisdiction or misuse of power, and to claims for damages to be paid or other remedy to be given to the party concerned for the failure of the other party to comply with its contractual obligations or its obligations under this Convention.

Article 190
Participation and appearance of sponsoring states parties in proceedings

1. If a natural or juridical person is a party to a dispute referred to in article 187, the sponsoring State shall be given notice thereof and shall have the right to participate in the proceedings by submitting written or oral statements.

2. If an action is brought against a State Party by a natural or juridical person sponsored by another State Party in a dispute referred to in article 187, subparagraph (c), the respondent State may request the State sponsoring that person to appear in the proceedings on behalf of that person. Failing such appearance, the respondent State may arrange to be represented by a juridical person of its nationality.

Article 191
Advisory opinions

The Sea-Bed Disputes Chamber shall give advisory opinions at the request of the Assembly or the Council on legal questions arising within the scope of their activities. Such opinions shall be given as a matter of urgency.

PART XII
PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

SECTION 1
GENERAL PROVISIONS

Article 192
General obligation

States have the obligation to protect and preserve the marine environment.

Article 193
Sovereign right of States to exploit their natural resources

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Article 194
Measures to prevent, reduce and control pollution of the marine environment

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does

not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, inter alia, those designed to minimize to the fullest possible extent:

(a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;

(b) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;

(c) pollution from installations and devices used in exploration or exploitation of the natural resources of the seabed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

(d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195
Duty not to transfer damage or hazards or transform one type of pollution into another

In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196
Use of technologies or introduction of alien or new species

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

SECTION 2
GLOBAL AND REGIONAL COOPERATION

Article 197
Cooperation on a global or regional basis

States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

Article 198
Notification of imminent or actual damage

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

Article 199
Contingency plans against pollution

In the cases referred to in article 198, States in the area affected, in accordance with their capabilities, and the competent international organizations shall cooperate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

Article 200
Studies, research programmes and exchange of information and data

States shall cooperate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes

to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

Article 201
Scientific criteria for regulations

In the light of the information and data acquired pursuant to article 200, States shall cooperate, directly or through competent international organizations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

SECTION 3
TECHNICAL ASSISTANCE

Article 202
Scientific and technical assistance to developing States

States shall, directly or through competent international organizations:

(a) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Such assistance shall include, inter alia:
  (i) training of their scientific and technical personnel;
  (ii) facilitating their participation in relevant international programmes;
  (iii) supplying them with necessary equipment and facilities;
  (iv) enhancing their capacity to manufacture such equipment;
  (v) advice on and developing facilities for research, monitoring, educational and other programmes;

(b) provide appropriate assistance, especially to developing States, for the minimization of the effects of major incidents which may cause serious pollution of the marine environment;

(c) provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.

Article 203
Preferential treatment for developing States

Developing States shall, for the purposes of prevention, reduction and control of pollution of the marine environment or minimization of its effects, be granted preference by international organizations in:

(a) the allocation of appropriate funds and technical assistance; and

(b) the utilization of their specialized services.

SECTION 4
MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204
Monitoring of the risks or effects of pollution

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment.

2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205
Publication of reports

States shall publish reports of the results obtained pursuant to article 204 or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all States.

Article 206
Assessment of potential effects of activities

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

SECTION 5
INTERNATIONAL RULES AND NATIONAL LEGISLATION TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

Article 207
Pollution from land-based sources

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208
Pollution from seabed activities subject to national jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

5. States, acting especially through competent international organizations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph l. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

Article 209
Pollution from activities in the Area

1. International rules, regulations and procedures shall be established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area. Such rules, regulations and procedures shall be re-examined from time to time as necessary.

2. Subject to the relevant provisions of this section, States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. The requirements of such laws and regulations shall be no less effective than the international rules, regulations and procedures referred to in paragraph 1.

Article 210
Pollution by dumping

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall ensure that dumping is not carried out without the permission of the competent authorities of States.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the coastal State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.

6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

Article 211
Pollution from vessels

1. States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption, in the same manner, wherever appropriate, of routeing systems designed to minimize the threat of accidents which might cause pollution of the marine environment, including the coastline, and pollution damage to

the related interests of coastal States. Such rules and standards shall, in the same manner, be re-examined from time to time as necessary.

2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

3. States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off-shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization. Whenever such requirements are established in identical form by two or more coastal States in an endeavour to harmonize policy, the communication shall indicate which States are participating in such cooperative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such cooperative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such cooperative arrangements and, if so, to indicate whether it complies with the port entry requirements of that State. This article is without prejudice to the continued exercise by a vessel of its right of innocent passage or to the application of article 25, paragraph 2.

4. Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, section 3, not hamper innocent passage of foreign vessels.

5. Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their exclusive economic zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

6.(a) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.

(b) The coastal States shall publish the limits of any such particular, clearly defined area.

(c) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organization thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of the communication to the organization, provided that the organization agrees within 12 months after the submission of the communication.

7. The international rules and standards referred to in this article should include inter alia those relating to prompt notification to coastal States, whose coastline or related interests may be affected by incidents, including maritime casualties, which involve discharges or probability of discharges.

Article 212
Pollution from or through the atmosphere

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine

environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

SECTION 6
ENFORCEMENT

Article 213
Enforcement with respect to pollution from land-based sources

States shall enforce their laws and regulations adopted in accordance with article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

Article 214
Enforcement with respect to pollution from seabed activities

States shall enforce their laws and regulations adopted in accordance with article 208 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

Article 215
Enforcement with respect to pollution from activities in the Area

Enforcement of international rules, regulations and procedures established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area shall be governed by that Part.

Article 216
Enforcement with respect to pollution by dumping

1. Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organizations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

(a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

(b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;

(c) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals.

2. No State shall be obliged by virtue of this article to institute proceedings when another State has already instituted proceedings in accordance with this article.

Article 217
Enforcement by flag States

1. States shall ensure compliance by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organization or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention for the prevention, reduction and control of pollution of the marine environment from vessels and shall accordingly adopt laws and regulations and take other measures necessary for their implementation. Flag States shall provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

2. States shall, in particular, take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards referred to in paragraph 1, including requirements in respect of design, construction, equipment and manning of vessels.

3. States shall ensure that vessels flying their flag or of their registry carry on board certificates required by and issued pursuant to international rules and standards referred to in paragraph 1. States shall ensure that vessels flying their flag are periodically inspected in order to verify that such certificates are in conformity with the actual condition of the vessels. These certificates shall be accepted by other States as evidence of the condition of the vessels and shall be regarded as having the same force as certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. If a vessel commits a violation of rules and standards established through the competent international organization or general diplomatic conference, the flag State, without prejudice to articles 218, 220 and 228, shall provide for immediate investigation and where appropriate institute proceedings in respect of the alleged violation irrespective of where the violation occurred or where the pollution caused by such violation has occurred or has been spotted.

5. Flag States conducting an investigation of the violation may request the assistance of any other State whose cooperation could be useful in clarifying the circumstances of the case. States shall endeavour to meet appropriate requests of flag States.

6. States shall, at the written request of any State, investigate any violation alleged to have been committed by vessels flying their flag. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, flag States shall without delay institute such proceedings in accordance with their laws.

7. Flag States shall promptly inform the requesting State and the competent international organization of the action taken and its outcome. Such information shall be available to all States.

8. Penalties provided for by the laws and regulations of States for vessels flying their flag shall be adequate in severity to discourage violations wherever they occur.

Article 218
Enforcement by port States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

2. No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.

3. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.

4. The records of the investigation carried out by a port State pursuant to this article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State.

Article 219
Measures relating to seaworthiness of vessels to avoid pollution

Subject to section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their off-shore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately.

Article 220
Enforcement by coastal States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

2. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international

rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the relevant provisions of Part II, section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of section 7.

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

4. States shall adopt laws and regulations and take other measures so that vessels flying their flag comply with requests for information pursuant to paragraph 3.

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

6. Where there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.

7. Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been assured, the coastal State if bound by such procedures shall allow the vessel to proceed.

8. The provisions of paragraphs 3, 4, 5, 6and 7 also apply in respect of national laws and regulations adopted pursuant to article 211, paragraph 6.

Article 221
Measures to avoid pollution arising from maritime casualties

1. Nothing in this Part shall prejudice the right of States, pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. For the purposes of this article, "maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

Article 222
Enforcement with respect to pollution from or through the atmosphere

States shall enforce, within the air space under their sovereignty or with regard to vessels flying their flag or vessels or aircraft of their registry, their laws and regulations adopted in accordance with article 212, paragraph 1, and with other provisions of this Convention and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from or through the atmosphere, in conformity with all relevant international rules and standards concerning the safety of air navigation.

SECTION 7
SAFEGUARDS

Article 223
Measures to facilitate proceedings

In proceedings instituted pursuant to this Part, States shall take measures to facilitate the hearing of witnesses and the admission of evidence submitted by authorities of another State, or by the competent international organization, and shall facilitate the attendance at such proceedings of official representatives of the competent international organization, the flag State and any State affected by pollution arising out of any violation. The official representatives attending such proceedings

shall have such rights and duties as may be provided under national laws and regulations or international law.

Article 224
Exercise of powers of enforcement

The powers of enforcement against foreign vessels under this Part may only be exercised by officials or by warships, military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 225
Duty to avoid adverse consequences in the exercise of the powers of enforcement

In the exercise under this Convention of their powers of enforcement against foreign vessels, States shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Article 226
Investigation of foreign vessels

1.(a) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:

(i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;

(ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or

(iii) the vessel is not carrying valid certificates and records.

(b) If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be made promptly subject to reasonable procedures such as bonding or other appropriate financial security.

(c) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV.

2. States shall cooperate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

Article 227
Non-discrimination with respect to foreign vessels

In exercising their rights and performing their duties under this Part, States shall not discriminate in form or in fact against vessels of any other State.

Article 228
Suspension and restrictions on institution of proceedings

1. Proceedings to impose penalties in respect of any violation of applicable laws and regulations or international rules and standards relating to the prevention, reduction and control of pollution from vessels committed by a foreign vessel beyond the territorial sea of the State instituting proceedings shall be suspended upon the taking of proceedings to impose penalties in respect of corresponding charges by the flag State within six months of the date on which proceedings were first instituted, unless those proceedings relate to a case of major damage to the coastal State or the flag State in question has repeatedly disregarded its obligation to enforce effectively the applicable international rules and standards in respect of violations committed by its vessels. The flag State shall in due course make available to the State previously instituting proceedings a full dossier of the case and the records of the proceedings, whenever the flag State has requested the suspension of proceedings in accordance with this article. When proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated. Upon payment of costs incurred in respect of such proceedings, any bond posted or other financial security provided in connection with the suspended proceedings shall be released by the coastal State.

2. Proceedings to impose penalties on foreign vessels shall not be instituted after the expiry of three years from the date on which the violation was committed, and shall not be taken by any State in the event of proceedings having been instituted by another State subject to the provisions set out in paragraph 1.

3. The provisions of this article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

Article 229
Institution of civil proceedings

Nothing in this Convention affects the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

Article 230
Monetary penalties and the observance of recognized rights of the accused

1. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels beyond the territorial sea.

2. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels in the territorial sea, except in the case of a wilful and serious act of pollution in the territorial sea.

3. In the conduct of proceedings in respect of such violations committed by a foreign vessel which may result in the imposition of penalties, recognized rights of the accused shall be observed.

Article 231
Notification to the flag State and other States concerned

States shall promptly notify the flag State and any other State concerned of any measures taken pursuant to section 6 against foreign vessels, and shall submit to the flag State all official reports concerning such measures. However, with respect to violations committed in the territorial sea, the foregoing obligations of the coastal State apply only to such measures as are taken in proceedings. The diplomatic agents or consular officers and where possible the maritime authority of the flag State, shall be immediately informed of any such measures taken pursuant to section 6 against foreign vessels.

Article 232
Liability of States arising from enforcement measures

States shall be liable for damage or loss attributable to them arising from measures taken pursuant to section 6 when such measures are unlawful or exceed those reasonably required in the light of available information. States shall provide for recourse in their courts for actions in respect of such damage or loss.

Article 233
Safeguards with respect to straits used for international navigation

Nothing in sections 5, 6 and 7 affects the legal regime of straits used for international navigation. However, if a foreign ship other than those referred to in section 10 has committed a violation of the laws and regulations referred to in article 42, paragraph 1(a) and (b), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect mutatis mutandis the provisions of this section.

SECTION 8
ICE-COVERED AREAS

Article 234
Ice-covered areas

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

SECTION 9
RESPONSIBILITY AND LIABILITY

Article 235
Responsibility and liability

1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.

2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.

3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall cooperate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

SECTION 10
SOVEREIGN IMMUNITY

Article 236
Sovereign immunity

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SECTION 11
OBLIGATIONS UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Article 237
Obligations under other conventions on the protection and preservation of the marine environment

1. The provisions of this Part are without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general principles set forth in this Convention.

2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of this Convention.

PART XV
SETTLEMENT OF DISPUTES

SECTION 1
GENERAL PROVISIONS

Article 279
Obligation to settle disputes by peaceful means

States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means inaccordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.

Article 280
Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice.

Article 281
Procedure where no settlement has been reached by the parties

1. If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure.

2. If the parties have also agreed on a time-limit, paragraph 1 applies only upon the expiration of that time-limit.

Article 282
Obligations under general, regional or bilateral agreements

If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that, entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

Article 283
Obligation to exchange views

1. When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means.

2. The parties shall also proceed expeditiously to an exchange of views where a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

Article 284
Conciliation

1. A State Party which is a party to a dispute concerning the interpretation or application of this Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Annex V, section 1, or another conciliation procedure.

2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied,

any party may submit the dispute to that procedure.

3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.

4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

Article 285
Application of this section to disputes submitted pursuant to Part XI

This section applies to any dispute which pursuant to Part XI, section 5, is to be settled in accordance with procedures provided for in this Part. If an entity other than a State Party is a party to such a dispute, this section applies *mutatis mutandis*.

SECTION 2
COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 286
Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287
Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;

(b) the International Court of Justice;

(c) an arbitral tribunal constituted in accordance with Annex VII;

(d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288
Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289
Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this

section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290
Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Seabed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires.Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291
Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 292
Prompt release of vessels and crews

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within 10 days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.

2. The application for release may be made only by or on behalf of the flag State of the vessel.

3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.

4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

Article 293
Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.

2. Paragraph l does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294
Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or

is *prima facie* unfounded, it shall take no further action in the case.

2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.

3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

Article 295
Exhaustion of local remedies

Any dispute between States Parties concerning the interpretation or application of this Convention may be submitted to the procedures provided for in this section only after local remedies have been exhausted where this is required by international law.

Article 296
Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

SECTION 3
LIMITATIONS AND EXCEPTIONS TO APPLICABILITY OF SECTION 2

Article 297
Limitations on applicability of section 2

1. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases:

(a) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58;

(b) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not incompatible with this Convention; or

(c) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.

2.(a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute arising out of:

(i) the exercise by the coastal State of a right or discretion in accordance with article 246; or

(ii) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.

(b) A dispute arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with this Convention shall be submitted, at the request of either party, to conciliation under Annex V, section 2, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in article 246, paragraph 6, or of its discretion to withhold consent in accordance with article 246, paragraph 5.

3.(a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management laws and regulations.

(b) Where no settlement has been reached by recourse to section 1 of this Part, a dispute shall be submitted to conciliation under Annex V, section 2, at the request of any party to the dispute, when it is alleged that:

(i) a coastal State has manifestly failed to comply with its obligations to ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not seriously endangered;

(ii) a coastal State has arbitrarily refused to determine, at the request of another State, the allowable catch and its capacity to harvest living resources with respect to stocks which that other State is interested in fishing; or

(iii) a coastal State has arbitrarily refused to allocate to any State, under articles 62, 69 and 70 and under the terms and conditions established by the coastal State consistent with this Convention, the whole or part of the surplus it has declared to exist.

(c) In no case shall the conciliation commission substitute its discretion for that of the coastal State.

(d) The report of the conciliation commission shall be communicated to the appropriate international organizations.

(e) In negotiating agreements pursuant to articles 69 and 70, States Parties, unless they otherwise agree, shall include a clause on measures which they shall take in order to minimize the possibility of a disagreement concerning the interpretation or application of the agreement, and on how they should proceed if a disagreement nevertheless arises.

Article 298
Optional exceptions to applicability of section 2

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:

(a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;

(ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree;

(iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties;

(b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1(a), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 299
Right of the parties to agree upon a procedure

1. A dispute excluded under article 297 or excepted by a declaration made under article 298 from the dispute settlement procedures provided for in

section 2 may be submitted to such procedures only by agreement of the parties to the dispute.

2. Nothing in this section impairs the right of the parties to the dispute to agree to some other procedure for the settlement of such dispute or to reach an amicable settlement.

DONE AT MONTEGO BAY, this tenth day of December, one thousand nine hundred and eighty-two.

ANNEX I
HIGHLY MIGRATORY SPECIES

1. Albacore tuna: *Thunnus alalunga.*
2. Bluefin tuna: *Thunnus thynnus.*
3. Bigeye tuna: *Thunnus obesus.*
4. Skipjack tuna: *Katsuwonus pelamis.*
5. Yellowfin tuna: *Thunnus albacares.*
6. Blackfin tuna: *Thunnus atlanticus.*
7. Little tuna: *Euthynnus alletteratus; Euthynnus affinis.*
8. Southern bluefin tuna: *Thunnus maccoyii*
9. Frigate mackerel: *Auxis thazard; Auxis rochei.*
10. Pomfrets: Family Bramidae.
11. Marlins: *Tetrapturus angustirostris; Tetrapturus belone; Tetrapturus pnuegeri; Tetrapturus albidus; Tetrapturus audax; Tetrapturus georgei; Makaira mazara; Makaira indica; Makaira nigricans.*
12. Sail-fishes: *Istiophorus platypterus; Istiophorus albicans.*
13. Swordfish: *Xiphias gladius.*
14. Sauries: *Scomberesox saurus; Cololabis saira; Cololabis adocetus; Scomberesox saurus scombroides.*
15. Dolphin: *Coryphaena hippurus; Coryphaena equiselis.*
16. Oceanic sharks: *Hexanchus griseus; Cetorhinus maximus;* Family Alopiidae; *Rhincodon typus;* Family Carcharhinidae; Family Sphyrnidae; Family Isurida.
17. Cetaceans: Family Physeteridae, Family Balaenopteridae; Family Balaenidae; Family Eschrichtiidae; Family Monodontidae; Family Ziphiidae; Family Delphinidae.

69. AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982

The States Parties to this Agreement,

Recognizing the important contribution of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as "the Convention") to the maintenance of peace, justice and progress for all peoples of the world,

Reaffirming that the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as "the Area"), as well as the resources of the Area, are the common heritage of mankind,

Mindful of the importance of the Convention for the protection and preservation of the marine environment and of the growing concern for the global environment,

Having considered the report of the Secretary-General of the United Nations on the results of the informal consultations among States held from 1990 to 1994 on outstanding issues relating to Part XI and related provisions of the Convention (hereinafter referred to as "Part XI"),

Noting the political and economic changes, including market-oriented approaches, affecting the implementation of Part XI,

Wishing to facilitate universal participation in the Convention,

Considering that an agreement relating to the implementation of Part XI would best meet that objective,

Have agreed as follows:

Article 1
Implementation of Part XI

1. The States Parties to this Agreement undertake to implement Part XI in accordance with this Agreement.

2. The Annex forms an integral part of this Agreement.

Article 2
Relationship between this Agreement and Part XI

1. The provisions of this Agreement and Part XI shall be interpreted and applied together as a single instrument. In the event of any inconsistency between this Agreement and Part XI, the provisions of this Agreement shall prevail.

2. Articles 309 to 319 of the Convention shall apply to this Agreement as they apply to the Convention.

Article 3
Signature

This Agreement shall remain open for signature at United Nations Headquarters by the States and entities referred to in article 305, paragraph 1 (a), (c), (d), (e) and (f), of the Convention for 12 months from the date of its adoption.

Article 4
Consent to be bound

1. After the adoption of this Agreement, any instrument of ratification or formal confirmation of or accession to the Convention shall also represent consent to be bound by this Agreement.

2. No State or entity may establish its consent to be bound by this Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention.

3. A State or entity referred to in article 3 may express its consent to be bound by this Agreement by:

(a) Signature not subject to ratification, formal confirmation or the procedure set out in article 5;

(b) Signature subject to ratification or formal confirmation, followed by ratification or formal confirmation;

(c) Signature subject to the procedure set out in article 5; or

(d) Accession.

4. Formal confirmation by the entities referred to in article 305, paragraph 1 (f), of the Convention shall be in accordance with Annex IX of the Convention.

5. The instruments of ratification, formal confirmation or accession shall be deposited with the Secretary-General of the United Nations.

Article 5
Simplified procedure

1. A State or entity which has deposited before the date of the adoption of this Agreement an instrument of ratification or formal confirmation of or accession to the Convention and which has signed this Agreement in accordance with article 4, paragraph 3 (c), shall be considered to have established its consent to be bound by this Agreement 12 months after the date of its adoption, unless that State or entity notifies the depositary in writing before that date that it is not availing itself of the simplified procedure set out in this article.

2. In the event of such notification, consent to be bound by this Agreement shall be established in accordance with article 4, paragraph 3 (b).

Article 6
Entry into force

1. This Agreement shall enter into force 30 days after the date on which 40 States have established their consent to be bound in accordance with articles 4 and 5, provided that such States include at least seven of the States referred to in paragraph l (a) of resolution II of the Third United Nations Conference on the Law of the Sea 5/ (hereinafter referred to as "resolution II") and that at least five of those States are developed States. If these conditions for entry into force are fulfilled before 16 November 1994, this Agreement shall enter into force on 16 November 1994.

2. For each State or entity establishing its consent to be bound by this Agreement after the requirements set out in paragraph 1 have been fulfilled, this Agreement shall enter into force on the thirtieth day following the date of establishment of its consent to be bound.

Article 7
Provisional application

1. If on 16 November 1994 this Agreement has not entered into force, it shall be applied provisionally pending its entry into force by:

(a) States which have consented to its adoption in the General Assembly of the United Nations, except any such State which before 16 November 1994 notifies the depositary in writing either that it will not so apply this Agreement or that it will consent to such application only upon subsequent signature or notification in writing;

(b) States and entities which sign this Agreement, except any such State or entity which notifies the depositary in writing at the time of signature that it will not so apply this Agreement;

(c) States and entities which consent to its provisional application by so notifying the depositary in writing;

(d) States which accede to this Agreement.

2. All such States and entities shall apply this Agreement provisionally in accordance with their national or internal laws and regulations, with effect from 16 November 1994 or the date of signature, notification of consent or accession, if later.

3. Provisional application shall terminate upon the date of entry into force of this Agreement. In any event, provisional application shall terminate on 16 November 1998 if at that date the requirement in article 6, paragraph 1, of consent to be bound by this Agreement by at least seven of the States (of which at least five must be developed States) referred to in paragraph 1 (a) of resolution II has not been fulfilled.

Article 8
States Parties

1. For the purposes of this Agreement, "States Parties" means States which have consented to be bound by this Agreement and for which this Agreement is in force.

2. This Agreement applies mutatis mutandis to the entities referred to in article 305, paragraph 1 (c), (d), (e) and (f), of the Convention which become Parties to this Agreement in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

Article 9
Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement.

Article 10
Authentic texts

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

DONE AT NEW YORK, this 28th day of July, one thousand nine hundred and ninety-four.

ANNEX

SECTION 1. COSTS TO STATES PARTIES AND INSTITUTIONAL ARRANGEMENTS

1. The International Seabed Authority (hereinafter referred to as "the Authority") is the organization through which States Parties to the Convention shall, in accordance with the regime for the Area established in Part XI and this Agreement, organize and control activities in the Area, particularly with a view to administering the resources of the Area. The powers and functions of the Authority shall be those expressly conferred upon it by the Convention. The Authority shall have such incidental powers, consistent with the Convention, as are implicit in, and necessary for, the exercise of those powers and functions with respect to activities in the Area.

6. (a) An application for approval of a plan of work for exploration shall be considered by the Council following the receipt of a recommendation on the application from the Legal and Technical Commission. The processing of an application for approval of a plan of work for exploration shall be in accordance with

the provisions of the Convention, including Annex III thereof, and this Agreement, and subject to the following:

(i) A plan of work for exploration submitted on behalf of a State or entity, or any component of such entity, referred to in resolution II, paragraph 1 (a) (ii) or (iii), other than a registered pioneer investor, which had already undertaken substantial activities in the Area prior to the entry into force of the Convention, or its successor in interest, shall be considered to have met the financial and technical qualifications necessary for approval of a plan of work if the sponsoring State or States certify that the applicant has expended an amount equivalent to at least US$ 30 million in research and exploration activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in the plan of work. If the plan of work otherwise satisfies the requirements of the Convention and any rules, regulations and procedures adopted pursuant thereto, it shall be approved by the Council in the form of a contract. The provisions of section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;

(ii) Notwithstanding the provisions of resolution II, paragraph 8 (a), a registered pioneer investor may request approval of a plan of work for exploration within 36 months of the entry into force of the Convention. The plan of work for exploration shall consist of documents, reports and other data submitted to the Preparatory Commission both before and after registration and shall be accompanied by a certificate of compliance, consisting of a factual report describing the status of fulfilment of obligations under the pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II, paragraph 11 (a). Such a plan of work shall be considered to be approved. Such an approved plan of work shall be in the form of a contract concluded between the Authority and the registered pioneer investor in accordance with Part XI and this Agreement. The fee of US$ 250,000 paid pursuant to resolution II, paragraph 7 (a), shall be deemed to be the fee relating to the exploration phase pursuant to section 8, paragraph 3, of this Annex. Section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;

(iii) In accordance with the principle of non-discrimination, a contract with a State or entity or any component of such entity referred to in subparagraph (a) (i) shall include arrangements which shall be similar to and no less favourable than those agreed with any registered pioneer investor referred to in subparagraph (a) (ii). If any of the States or entities or any components of such entities referred to in subparagraph (a) (i) are granted more favourable arrangements, the Council shall make similar and no less favourable arrangements with regard to the rights and obligations assumed by the registered pioneer investors referred to in subparagraph (a) (ii), provided that such arrangements do not affect or prejudice the interests of the Authority;

(iv) A State sponsoring an application for a plan of work pursuant to the provisions of subparagraph (a) (i) or (ii) may be a State Party or a State which is applying this Agreement provisionally in accordance with article 7, or a State which is a member of the Authority on a provisional basis in accordance with paragraph 12;

(v) Resolution II, paragraph 8 (c), shall be interpreted and applied in accordance with subparagraph (a) (iv). (b) The approval of a plan of work for exploration shall be in accordance with article 153, paragraph 3, of the Convention.

7. An application for approval of a plan of work shall be accompanied by an assessment of the potential environmental impacts of the proposed activities and by a description of a programme for oceanographic and baseline environmental studies in accordance with the rules, regulations and procedures adopted by the Authority.

8. An application for approval of a plan of work for exploration, subject to paragraph 6 (a) (i) or (ii), shall be processed in accordance with the procedures set out in section 3, paragraph 11, of this Annex.

9. A plan of work for exploration shall be approved for a period of 15 years. Upon the expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so or has obtained an extension for the plan of work for exploration. Contractors may apply for such extensions for periods of not more than five years each. Such extensions shall be approved if the contractor has made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

SECTION 2. THE ENTERPRISE

1. The Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. The Secretary-General of the Authority shall appoint from within the staff of

the Authority an interim Director-General to oversee the performance of these functions by the Secretariat. These functions shall be:

(a) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(b) Assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;

(c) Assessment of available data relating to prospecting and exploration, including the criteria for such activities;

(d) Assessment of technological developments relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(e) Evaluation of information and data relating to areas reserved for the Authority;

(f) Assessment of approaches to joint-venture operations;

(g) Collection of information on the availability of trained manpower;

(h) Study of managerial policy options for the administration of the Enterprise at different stages of its operations.

SECTION 3. DECISION-MAKING

1. The general policies of the Authority shall be established by the Assembly in collaboration with the Council.

2. As a general rule, decision-making in the organs of the Authority should be by consensus.

3. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Assembly on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance shall be taken by a two-thirds majority of members present and voting, as provided for in article 159, paragraph 8, of the Convention.

4. Decisions of the Assembly on any matter for which the Council also has competence or on any administrative, budgetary or financial matter shall be based on the recommendations of the Council. If the Assembly does not accept the recommendation of the Council on any matter, it shall return the matter to the Council for further consideration. The Council shall reconsider the matter in the light of the views expressed by the Assembly.

5. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Council on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance, except where the Convention provides for decisions by consensus in the Council, shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in paragraph 9. In taking decisions the Council shall seek to promote the interests of all the members of the Authority.

6. The Council may defer the taking of a decision in order to facilitate further negotiation whenever it appears that all efforts at achieving consensus on a question have not been exhausted.

7. Decisions by the Assembly or the Council having financial or budgetary implications shall be based on the recommendations of the Finance Committee.

SECTION 5. TRANSFER OF TECHNOLOGY

1. In addition to the provisions of article 144 of the Convention, transfer of technology for the purposes of Part XI shall be governed by the following principles:

(a) The Enterprise, and developing States wishing to obtain deep seabed mining technology, shall seek to obtain such technology on fair and reasonable commercial terms and conditions on the open market, or through joint-venture arrangements;

(b) If the Enterprise or developing States are unable to obtain deep seabed mining technology, the Authority may request all or any of the contractors and their respective sponsoring State or States to cooperate with it in facilitating the acquisition of deep seabed mining technology by the Enterprise or its joint venture, or by a developing State or States seeking to acquire such technology on fair and reasonable commercial terms and conditions, consistent with the effective protection of intellectual property rights. States Parties undertake to cooperate fully and effectively with the Authority for this purpose and to ensure that contractors sponsored by them also cooperate fully with the Authority;

(c) As a general rule, States Parties shall promote international technical and scientific cooperation with regard to activities in the Area either between the parties concerned or by developing training, technical assistance and scientific cooperation programmes in marine science and technology and the protection and preservation of the marine environment.

2. The provisions of Annex III, article 5, of the Convention shall not apply.

SECTION 6. PRODUCTION POLICY

1. The production policy of the Authority shall be based on the following principles:

(a) Development of the resources of the Area shall take place in accordance with sound commercial principles;

(b) The provisions of the General Agreement on Tariffs and Trade, its relevant codes and successor or superseding agreements shall apply with respect to activities in the Area;

(c) In particular, there shall be no subsidization of activities in the Area except as may be permitted under the agreements referred to in subparagraph (b). Subsidization for the purpose of these principles shall be defined in terms of the agreements referred to in subparagraph (b);

(d) There shall be no discrimination between minerals derived from the Area and from other sources. There shall be no preferential access to markets for such minerals or for imports of commodities produced from such minerals, in particular:
   (i) By the use of tariff or non-tariff barriers; and
   (ii) Given by States Parties to such minerals or commodities produced by their state enterprises or by natural or juridical persons which possess their nationality or are controlled by them or their nationals;

(e) The plan of work for exploitation approved by the Authority in respect of each mining area shall indicate an anticipated production schedule which shall include the estimated maximum amounts of minerals that would be produced per year under the plan of work;

(f) The following shall apply to the settlement of disputes concerning the provisions of the agreements referred to in subparagraph (b):
   (i) Where the States Parties concerned are parties to such agreements, they shall have recourse to the dispute settlement procedures of those agreements;
   (ii) Where one or more of the States Parties concerned are not parties to such agreements, they shall have recourse to the dispute settlement procedures set out in the Convention;

(g) In circumstances where a determination is made under the agreements referred to in subparagraph (b) that a State Party has engaged in subsidization which is prohibited or has resulted in adverse effects on the interests of another State Party and appropriate steps have not been taken by the relevant State Party or States Parties, a State Party may request the Council to take appropriate measures.

2. The principles contained in paragraph 1 shall not affect the rights and obligations under any provision of the agreements referred to in paragraph 1 (b), as well as the relevant free trade and customs union agreements, in relations between States Parties which are parties to such agreements.

3. The acceptance by a contractor of subsidies other than those which may be permitted under the agreements referred to in paragraph 1 (b) shall constitute a violation of the fundamental terms of the contract forming a plan of work for the carrying out of activities in the Area.

4. Any State Party which has reason to believe that there has been a breach of the requirements of paragraphs 1 (b) to (d) or 3 may initiate dispute settlement procedures in conformity with paragraph 1 (f) or (g).

5. A State Party may at any time bring to the attention of the Council activities which in its view are inconsistent with the requirements of paragraph 1 (b) to (d).

6. The Authority shall develop rules, regulations and procedures which ensure the implementation of the provisions of this section, including relevant rules, regulations and procedures governing the approval of plans of work.

7. The provisions of article 151, paragraphs 1 to 7 and 9, article 162, paragraph 2 (q), article 165, paragraph 2 (n), and Annex III, article 6, paragraph 5, and article 7, of the Convention shall not apply.

SECTION 7. ECONOMIC ASSISTANCE

1. The policy of the Authority of assisting developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, shall be based on the following principles:

(a) The Authority shall establish an economic assistance fund from a portion of the funds of the Authority which exceeds those necessary to cover the administrative expenses of the Authority. The amount set aside for this purpose shall be determined by the Council from time to time, upon the recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be used for the establishment of the economic assistance fund;

(b) Developing land-based producer States whose economies have been determined to be seriously affected by the production of minerals from the deep seabed shall be assisted from the economic assistance fund of the Authority;

(c) The Authority shall provide assistance from the fund to affected developing land-based producer States, where appropriate, in cooperation with existing global or regional development institutions which have the infrastructure and expertise to carry out such assistance programmes;

(d) The extent and period of such assistance shall be determined on a case-by-case basis. In doing so, due consideration shall be given to the nature and magnitude of the problems encountered by affected developing land-based producer States.

2. Article 151, paragraph 10, of the Convention shall be implemented by means of measures of economic assistance referred to in paragraph 1. Article 160, paragraph 2 (l), article 162, paragraph 2 (n), article 164, paragraph 2 (d), article 171, subparagraph (f), and article 173, paragraph 2 (c), of the Convention shall be interpreted accordingly.

70. NORTH AMERICAN FREE TRADE AGREEMENT

PREAMBLE

The Government of Canada, the Government of the United Mexican States and the Government of the United States of America, resolved to:

STRENGTHEN the special bonds of friendship and cooperation among their nations;

CONTRIBUTE to the harmonious development and expansion of world trade and provide a catalyst to broader international cooperation;

CREATE an expanded and secure market for the goods and services produced in their territories;

REDUCE distortions to trade;

ESTABLISH clear and mutually advantageous rules governing their trade;

ENSURE a predictable commercial framework for business planning and investment;

BUILD on their respective rights and obligations under the General Agreement on Tariffs and Trade and other multilateral and bilateral instruments of cooperation;

ENHANCE the competitiveness of their firms in global markets;

FOSTER creativity and innovation, and promote trade in goods and services that are the subject of intellectual property rights;

CREATE new employment opportunities and improve working conditions and living standards in their respective territories;

UNDERTAKE each of the preceding in a manner consistent with environmental protection and conservation;

PRESERVE their flexibility to safeguard the public welfare;

PROMOTE sustainable development;

STRENGTHEN the development and enforcement of environmental laws and regulations; and

PROTECT, enhance and enforce basic workers' rights;

HAVE AGREED as follows:

PART ONE GENERAL PART

CHAPTER ONE: OBJECTIVES

Article 101
Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the *General Agreement on Tariffs and Trade*, hereby establish a free trade area.

Article 102
Objectives

1. The objectives of this Agreement, as elaborated more specifically through its principles and rules, including national treatment, most-favored-nation treatment and transparency, are to:

a) eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;

b) promote conditions of fair competition in the free trade area;

c) increase substantially investment opportunities in the territories of the Parties;

d) provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory;

e) create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes; and

f) establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement.

2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with applicable rules of international law.

Article 103
Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the *General Agreement on Tariffs and Trade* and other agreements to which such Parties are party.

2. In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

Article 104
Relation to Environmental and Conservation Agreements

1. In the event of any inconsistency between this Agreement and the specific trade obligations set out in:

a) the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington, March 3, 1973, as amended June 22, 1979,

b) the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987, as amended June 29, 1990,

c) the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*, done at Basel, March 22, 1989, on its entry into force for Canada, Mexico and the United States, or

d) the agreements set out in Annex 104.1,

such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

2. The Parties may agree in writing to modify Annex 104.1 to include any amendment to an agreement referred to in paragraph 1, and any other environmental or conservation agreement.

Article 105
Extent of Obligations

The Parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement, including their observance, except as otherwise provided in this Agreement, by state and provincial governments.

PART TWO
TRADE IN GOODS

CHAPTER THREE
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 300
Scope and Coverage

This Chapter applies to trade in goods of a Party, including:

(a) goods covered by Annex 300-A (Trade and Investment in the Automotive Sector),

(b) goods covered by Annex 300-B (Textile and Apparel Goods), and

(c) goods covered by another Chapter in this Part, except as provided in such Annex or Chapter.

SECTION A
NATIONAL TREATMENT

Article 301
National Treatment

1. Each Party shall accord national treatment to the goods of another Party in accordance with Article III of the *General Agreement on Tariffs and Trade* (GATT), including its interpretative notes, and to this end Article III of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded by such state or province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part.

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex 301.3.

SECTION B
TARIFFS

Article 302
Tariff Elimination

1. Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 302.2.

3. On the request of any Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement between two or more Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each such Party in accordance with its applicable legal procedures.

4. Each Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff rate quota set out in Annex 302.2, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.

5. On written request of any Party, a Party applying or intending to apply measures pursuant to paragraph 4 shall consult to review the administration of those measures.

Article 303
Restriction on Drawback and Duty Deferral Programs

1. Except as otherwise provided in this Article, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:

(a) subsequently exported to the territory of another Party,

(b) used as a material in the production of another good that is subsequently exported to the territory of another Party, or

(c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

2. No Party may, on condition of export, refund, waive or reduce:

(a) an antidumping or countervailing duty that is applied pursuant to a Party's domestic law and that is not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);

(b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

(c) a fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures); or

(d) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party.

3. Where a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, the Party from whose territory the good is exported:

(a) shall assess the customs duties as if the exported good had been withdrawn for domestic consumption; and

(b) may waive or reduce such customs duties to the extent permitted under paragraph 1.

4. In determining the amount of customs duties that may be refunded, waived or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

5. Where satisfactory evidence of the customs duties paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:

(a) shall collect customs duties as if the exported good had been withdrawn for domestic consumption; and

(b) may refund such customs duties to the extent permitted under paragraph 1 on the timely presentation of such evidence under its laws and regulations.

6. This Article does not apply to:

(a) a good entered under bond for transportation and exportation to the territory of another Party;

(b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported (processes such as testing, cleaning, repacking or inspecting the good, or preserving it in its same condition, shall not be considered to change a good's condition). Except as provided in Annex 703.2, Section A, paragraph 12, where such a good has been commingled with fungible goods and exported in the same condition, its origin for purposes of this subparagraph, may be determined on the basis of the inventory methods provided for in the Uniform Regulations established under Article 511 (Uniform Regulations);

(c) a good imported into the territory of a Party that is deemed to be exported from its territory, or used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of
   (i) delivery to a duty-free shop,
   (ii) delivery for ship's stores or supplies for ships or aircraft, or
   (iii) delivery for use in joint undertakings of two or more of the Parties and that will subsequently become the property of the Party into whose territory the good was deemed to be imported;

(d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, where that refund is granted by reason of the failure of such good to conform to sample or specification, or by reason of the shipment of such good without the consent of the consignee;

(e) an originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party; or

(f) a good set out in Annex 303.6.

7. Except for paragraph 2(d), this Article shall apply as of the date set out in each Party's Section of Annex 303.7.

8. Notwithstanding any other provision of this Article and except as specifically provided in Annex 303.8, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a non-originating good provided for in item 8540.11.aa (color cathode-ray television picture tubes, including video monitor tubes, with a diagonal exceeding 14 inches) or 8540.11.cc (color cathoderay television picture tubes for high definition television, with a diagonal exceeding 14 inches) that is imported into the Party's territory and subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party.

9. For purposes of this Article:
(a) customs duties are the customs duties that would be applicable to a good entered for consumption in the customs territory of a Party if the good were not exported to the territory of another party;

(b) identical or similar goods means "identical or similar goods" as defined in Article 415 (Rules of Origin Definitions);

(c) material means "material" as defined in Article 415;

(d) used means "used" as defined in Article 415.

10. For purposes of the Article:
Where a good referred to by a tariff item number in this Article is described in parentheses following the tariff item number, the description is provided for purposes of reference only.

Article 304
Waiver of Customs Duties

1. Except as set out in Annex 304.1, no Party may adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

2. Except as set out in Annex 304.2, no Party may, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties.

3. If a waiver or a combination of waivers of customs duties granted by a Party with respect to goods for commercial use by a designated person can be shown by another Party to have an adverse impact on the commercial interests of a person of that Party, or of a person owned or controlled by a person of that Party that is located in the territory of the Party granting the waiver, or on the other Party's economy, the Party granting the waiver shall either cease to grant it or make it generally available to any importer.

4. This Article shall not apply to measures subject to Article 303.

Article 305
Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for:
(a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter Sixteen (Temporary Entry for Business Persons);

(b) equipment for the press or for sound or television broadcasting and cinematographic equipment;

(c) goods imported for sports purposes and goods intended for display or demonstration; and

(d) commercial samples and advertising films, imported from the territory of another Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.

2. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:
(a) be imported by a national or resident of another Party who seeks temporary entry;

(b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;

(c) not be sold or leased while in its territory;

(d) be accompanied by a bond in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good;

(e) be capable of identification when exported;

(f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and

(g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(d), other than to require that such good:

(a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party;

(b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;

(c) be capable of identification when exported;

(d) be exported within such period as is reasonably related to the purpose of the temporary admission; and

(e) be imported in no greater quantity than is reasonable for its intended use.

4. A Party may impose the customs duty and any other charge on a good temporarily admitted duty-free under paragraph 1 that would be owed on entry or final importation of such good if any condition that the Party imposes under paragraph 2 or 3 has not been fulfilled.

5. Subject to Chapters Eleven (Investment) and Twelve (Cross Border Trade in Services):

(a) each Party shall allow a vehicle or container used in international traffic that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;

(b) no Party may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;

(c) no Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and

(d) no Party may require that the vehicle or carrier bringing a container from the territory of another Party into its territory be the same vehicle or carrier that takes such container to the territory of another Party.

6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Article 306
Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of another Party, regardless of their origin, but may require that:

(a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party; or

(b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 307
Goods Re-Entered after Repair or Alteration

1. Except as set out in Annex 307.1, no Party may apply a customs duty to a good, regardless of its origin, that re enters its territory after that good has been exported from its territory to the territory of another Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.

2. Notwithstanding Article 303, no Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of another Party for repair or alteration.

3. Annex 307.3 applies to the Parties specified in that Annex respecting the repair and rebuilding of vessels.

Article 308
Most Favored Nation Rates of Duty on Certain Goods

1. Annex 308.1 applies to certain automatic data processing goods and their parts.

2. Annex 308.2 applies to certain color television tubes.

3. Each Party shall accord most-favored-nation duty-free treatment to any local area network apparatus imported into its territory, and shall consult in accordance with Annex 308.3.

SECTION C
NON-TARIFF MEASURES

Article 309
Import and Export Restrictions

1. Except as otherwise provided in this Agreement, no Party may adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except in accordance with Article XI of the GATT, including its interpretative notes, and to this end Article XI of the GATT and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties understand that the GATT rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

(a) limiting or prohibiting the importation from the territory of another Party of such good of that non-Party; or

(b) requiring as a condition of export of such good of the Party to the territory of another Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties, on request of any Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing and distribution arrangements in another Party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex 301.3.

Article 310
Customs User Fees

1. No Party may adopt any customs user fee of the type referred to in Annex 310.1 for originating goods.

2. The Parties specified in Annex 310.1 may maintain existing such fees in accordance with that Annex.

Article 311
Country of Origin Marking

Annex 311 applies to measures relating to country of origin marking.

Article 312
Wine and Distilled Spirits

1. No Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of another Party for bottling be blended with any distilled spirits of the Party.

2. Annex 312.2 applies to other measures relating to wine and distilled spirits.

Article 313
Distinctive Products

Annex 313 applies to standards and labelling of the distinctive products set out in that Annex.

Article 314
Export Taxes

Except as set out in Annex 314, no Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of another Party, unless such duty, tax or charge is adopted or maintained on:

(a) exports of any such good to the territory of all other Parties; and

(b) any such good when destined for domestic consumption.

Article 315
Other Export Measures

1. Except as set out in Annex 315, a Party may adopt or maintain a restriction otherwise justified under Articles XI:2(a) or XX(g), (i) or (j) of the GATT with respect to the export of a good of the Party to the territory of another Party, only if:

(a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to that other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;

(b) the Party does not impose a higher price for exports of a good to that other Party than the price charged for such good when consumed domestically, by means of any measure, such as licenses, fees,

taxation and minimum price requirements. The foregoing provision does not apply to a higher price that may result from a measure taken pursuant to subparagraph (a) that only restricts the volume of exports; and

(c) the restriction does not require the disruption of normal channels of supply to that other Party or normal proportions among specific goods or categories of goods supplied to that other Party.

2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other's goods to a non-Party in implementing this Article.

SECTION D
CONSULTATIONS

Article 316
Consultations and Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.

2. The Committee shall meet on the request of any Party or the Commission to consider any matter arising under this Chapter.

3. The Parties shall convene at least once each year a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.

Article 317
Third Country Dumping

1. The Parties affirm the importance of cooperation with respect to actions under Article 12 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade*.

2. Where a Party presents an application to another Party requesting antidumping action on its behalf, those Parties shall consult within 30 days respecting the factual basis of the request, and the requested Party shall give full consideration to the request.

SECTION E
DEFINITIONS

Article 318
Definitions

For purposes of this Chapter:

1. advertising films means recorded visual media, with or without soundtracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and that do not form part of a larger consignment;

2. commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of another Party, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

3. consumed means:
(a) actually consumed; or

(b) further processed or manufactured so as to result in a substantial change in value, form or use of the good or in the production of another good;

4. customs duty includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:
(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT, or any equivalent provision of a successor agreement to which all Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(b) antidumping or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters);

(c) fee or other charge in connection with importation commensurate with the cost of services rendered;

(d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels; and

(e) fee applied pursuant to section 22 of the U.S. *Agricultural Adjustment Act*, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures);

5. distilled spirits include distilled spirits and distilled spirit_containing beverages;

6. duty deferral program includes measures such as those governing foreign trade zones, temporary

importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

7. duty-free means free of customs duty;

8. goods imported for sports purposes means sports requisites for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

9. goods intended for display or demonstration includes their component parts, ancillary apparatus and accessories;

10. item means a tariff classification item at the eight- or 10-digit level set out in a Party's tariff schedule;

11. local area network apparatus means a good dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units, including in-line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof suitable for use solely or principally with a private network, and providing for the transmission, receipt, error-checking, control, signal conversion or correction functions for non-voice data to move through a local area network;

12. performance requirement means a requirement that:
(a) a given level or percentage of goods or services be exported;

(b) domestic goods or services of the Party granting a waiver of customs duties be substituted for imported goods or services;

(c) a person benefitting from a waiver of customs duties purchase other goods or services in the territory of the Party granting the waiver or accord a preference to domestically produced goods or services;

(d) a person benefitting from a waiver of customs duties produce goods or provide services, in the territory of the Party granting the waiver, with a given level or percentage of domestic content; or

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;

13. printed advertising materials means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

14. repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates a new or commercially different good;

15. satisfactory evidence means:
(a) a receipt, or a copy of a receipt, evidencing payment of customs duties on a particular entry;

(b) a copy of the entry document with evidence that it was received by a customs administration;

(c) a copy of a final customs duty determination by a customs administration respecting the relevant entry;

(d) any other evidence of payment of customs duties acceptable under the Uniform Regulations established in accordance with Chapter Five (Customs Procedures);

16. total export shipments means all shipments from total supply to users located in the territory of another Party;

17. total supply means all shipments, whether intended for domestic or foreign users, from:
(a) domestic production;

(b) domestic inventory; and

(c) other imports as appropriate; and

18. waiver of customs duties means a measure that waives otherwise applicable customs duties on any good imported from any country, including the territory of another Party.

PART FIVE
INVESTMENT, SERVICES AND RELATED MATTERS

CHAPTER ELEVEN
INVESTMENT

SECTION A
INVESTMENT

Article 1101
Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to:
(a) investors of another Party;

(b) investments of investors of another Party in the territory of the Party; and

(c) with respect to Articles 1106 and 1114, all investments in the territory of the Party.

2. A Party has the right to perform exclusively the economic activities set out in Annex III and to refuse to permit the establishment of investment in such activities.

3. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter Fourteen (Financial Services).

4. Nothing in this Chapter shall be construed to prevent a Party from providing a service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care, in a manner that is not inconsistent with this Chapter.

Article 1102
National Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.

4. For greater certainty, no Party may:

(a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or

(b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

Article 1103
Most-Favored-Nation Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

Article 1104
Standard of Treatment

Each Party shall accord to investors of another Party and to investments of investors of another Party the better of the treatment required by Articles 1102 and 1103.

Article 1105
Minimum Standard of Treatment

1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 1102 but for Article 1108(7)(b).

Article 1106
Performance Requirements

1. No Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory:

(a) to export a given level or percentage of goods or services;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;

(e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;

(f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or

(g) to act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles 1102 and 1103 apply to the measure.

3. No Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;

(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or

(d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.

4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.

6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in paragraph 1(b) or (c) or 3(a) or (b) shall be construed to prevent any Party from adopting or maintaining measures, including environmental measures:

(a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

(b) necessary to protect human, animal or plant life or health; or

(c) necessary for the conservation of living or non-living exhaustible natural resources.

Article 1107
Senior Management and Boards of Directors

1. No Party may require that an enterprise of that Party that is an investment of an investor of another Party appoint to senior management positions individuals of any particular nationality.

2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is an investment of an investor of another Party, be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

Article 1108
Reservations and Exceptions

1. Articles 1102, 1103, 1106 and 1107 do not apply to:

(a) any existing non-conforming measure that is maintained by
  (i) a Party at the federal level, as set out in its Schedule to Annex I or III,
  (ii) (ii) a state or province, for two years after the date of entry into force of this Agreement, and thereafter as set out by a Party in its Schedule to Annex I in accordance with paragraph 2, or
  (iii) a local government;

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 1102, 1103, 1106 and 1107.

2. Each Party may set out in its Schedule to Annex I, within two years of the date of entry into force of this Agreement, any existing nonconforming measure maintained by a state or province, not including a local government.

3. Articles 1102, 1103, 1106 and 1107 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

4. No Party may, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II, require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

5. Articles 1102 and 1103 do not apply to any measure that is an exception to, or derogation from, the obligations under Article 1703 (Intellectual Property National Treatment) as specifically provided for in that Article.

6. Article 1103 does not apply to treatment accorded by a Party pursuant to agreements, or with respect to sectors, set out in its Schedule to Annex IV.

7. Articles 1102, 1103 and 1107 do not apply to:
(a) procurement by a Party or a state enterprise; or

(b) subsidies or grants provided by a Party or a state enterprise, including government supported loans, guarantees and insurance.

8. The provisions of:
(a) Article 1106(1)(a), (b) and (c), and (3)(a) and (b) do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;

(b) Article 1106(1)(b), (c), (f) and (g), and (3)(a) and (b) do not apply to procurement by a Party or a state enterprise; and

(c) Article 1106(3)(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

Article 1109
Transfers

1. Each Party shall permit all transfers relating to an investment of an investor of another Party in the territory of the Party to be made freely and without delay. Such transfers include:
(a) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the investment;

(b) proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;

(c) payments made under a contract entered into by the investor, or its investment, including payments made pursuant to a loan agreement;

(d) payments made pursuant to Article 1110; and

(e) payments arising under Section B.

2. Each Party shall permit transfers to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer with respect to spot transactions in the currency to be transferred.

3. No Party may require its investors to transfer, or penalize its investors that fail to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of another Party.

4. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:
(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offenses;

(d) reports of transfers of currency or other monetary instruments; or

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

5. Paragraph 3 shall not be construed to prevent a Party from imposing any measure through the equitable, non-discriminatory and good faith application of its laws relating to the matters set out in subparagraphs (a) through (e) of paragraph 4.

6. Notwithstanding paragraph 1, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 4.

Article 1110
Expropriation and Compensation

1. No Party may directly or indirectly nationalize or expropriate an investment of an investor of another Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment ("expropriation"), except:

(a) for a public purpose;

(b) on a non-discriminatory basis;

(c) in accordance with due process of law and Article 1105(1); and

(d) on payment of compensation in accordance with paragraphs 2 through 6.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

3. Compensation shall be paid without delay and be fully realizable.

4. If payment is made in a G7 currency, compensation shall include interest at a commercially reasonable rate for that currency from the date of expropriation until the date of actual payment.

5. If a Party elects to pay in a currency other than a G7 currency, the amount paid on the date of payment, if converted into a G7 currency at the market rate of exchange prevailing on that date, shall be no less than if the amount of compensation owed on the date of expropriation had been converted into that G7 currency at the market rate of exchange prevailing on that date, and interest had accrued at a commercially reasonable rate for that G7 currency from the date of expropriation until the date of payment.

6. On payment, compensation shall be freely transferable as provided in Article 1109.

7. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with Chapter Seventeen (Intellectual Property).

8. For purposes of this Article and for greater certainty, a non-discriminatory measure of general application shall not be considered a measure tantamount to an expropriation of a debt security or loan covered by this Chapter solely on the ground that the measure imposes costs on the debtor that cause it to default on the debt.

Article 1111
Special Formalities and Information Requirements

1. Nothing in Article 1102 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with the establishment of investments by investors of another Party, such as a requirement that investors be residents of the Party or that investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of another Party and investments of investors of another Party pursuant to this Chapter.

2. Notwithstanding Articles 1102 or 1103, a Party may require an investor of another Party, or its investment in its territory, to provide routine information concerning that investment solely for informational or statistical purposes. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the investor or the investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 1112
Relation to Other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.

2. A requirement by a Party that a service provider of another Party post a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this Chapter applicable to the provision of that crossborder service. This Chapter applies to that Party's treatment of the posted bond or financial security.

Article 1113
Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of such Party and to investments of such investor if investors of a non-Party own or control the enterprise and the denying Party:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party that prohibit transactions with the

enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.

2. Subject to prior notification and consultation in accordance with Articles 1803 (Notification and Provision of Information) and 2006 (Consultations), a Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of such Party and to investments of such investors if investors of a non-Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the Party under whose law it is constituted or organized.

Article 1114
Environmental Measures

1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.

2. The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that another Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding any such encouragement.

SECTION B
SETTLEMENT OF DISPUTES BETWEEN A PARTY AND AN INVESTOR OF ANOTHER PARTY

Article 1115
Purpose

Without prejudice to the rights and obligations of the Parties under Chapter Twenty (Institutional Arrangements and Dispute Settlement Procedures), this Section establishes a mechanism for the settlement of investment disputes that assures both equal treatment among investors of the Parties in accordance with the principle of international reciprocity and due process before an impartial tribunal.

Article 1116
Claim by an Investor of a Party on Its Own Behalf

1. An investor of a Party may submit to arbitration under this Section a claim that another Party has breached an obligation under:

(a) Section A or Article 1503(2) (State Enterprises), or

(b) Article 1502(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with the Party's obligations under Section A, and that the investor has incurred loss or damage by reason of, or arising out of, that breach.

2. An investor may not make a claim if more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage.

Article 1117
Claim by an Investor of a Party on Behalf of an Enterprise

1. An investor of a Party, on behalf of an enterprise of another Party that is a juridical person that the investor owns or controls directly or indirectly, may submit to arbitration under this Section a claim that the other Party has breached an obligation under:

(a) Section A or Article 1503(2) (State Enterprises), or

(b) Article 1502(3)(a) (Monopolies and State Enterprises) where the monopoly has acted in a manner inconsistent with the Party's obligations under Section A, and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

2. An investor may not make a claim on behalf of an enterprise described in paragraph 1 if more than three years have elapsed from the date on which the enterprise first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the enterprise has incurred loss or damage.

3. Where an investor makes a claim under this Article and the investor or a non-controlling investor in the enterprise makes a claim under Article 1116 arising out of the same events that gave rise to the claim under this Article, and two or more of the claims are submitted to arbitration under Article 1120, the claims should be heard together by a Tribunal established under Article 1126, unless the Tribunal finds that the interests of a disputing party would be prejudiced thereby.

4. An investment may not make a claim under this Section.

Article 1118
Settlement of a Claim through Consultation and Negotiation

The disputing parties should first attempt to settle a claim through consultation or negotiation.

Article 1119
Notice of Intent to Submit a Claim to Arbitration

The disputing investor shall deliver to the disputing Party written notice of its intention to submit a claim

to arbitration at least 90 days before the claim is submitted, which notice shall specify:

(a) the name and address of the disputing investor and, where a claim is made under Article 1117, the name and address of the enterprise;

(b) the provisions of this Agreement alleged to have been breached and any other relevant provisions;

(c) the issues and the factual basis for the claim; and

(d) the relief sought and the approximate amount of damages claimed.

Article 1120
Submission of a Claim to Arbitration

1. Except as provided in Annex 1120.1, and provided that six months have elapsed since the events giving rise to a claim, a disputing investor may submit the claim to arbitration under:

(a) the ICSID Convention, provided that both the disputing Party and the Party of the investor are parties to the Convention;

(b) the Additional Facility Rules of ICSID, provided that either the disputing Party or the Party of the investor, but not both, is a party to the ICSID Convention; or

(c) the UNCITRAL Arbitration Rules.

2. The applicable arbitration rules shall govern the arbitration except to the extent modified by this Section.

Article 1121
Conditions Precedent to Submission of a Claim to Arbitration

1. A disputing investor may submit a claim under Article 1116 to arbitration only if:

(a) the investor consents to arbitration in accordance with the procedures set out in this Agreement; and

(b) the investor and, where the claim is for loss or damage to an interest in an enterprise of another Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise, waive their right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 1116, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.

2. A disputing investor may submit a claim under Article 1117 to arbitration only if both the investor and the enterprise:

(a) consent to arbitration in accordance with the procedures set out in this Agreement; and

(b) waive their right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 1117, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.

3. A consent and waiver required by this Article shall be in writing, shall be delivered to the disputing Party and shall be included in the submission of a claim to arbitration.

4. Only where a disputing Party has deprived a disputing investor of control of an enterprise:
   (a) a waiver from the enterprise under paragraph 1(b) or 2(b) shall not be required; and

   (b) Annex 1120.1(b) shall not apply.

Article 1122
Consent to Arbitration

1. Each Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Agreement.

2. The consent given by paragraph 1 and the submission by a disputing investor of a claim to arbitration shall satisfy the requirement of:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the Additional Facility Rules for written consent of the parties;

(b) Article II of the New York Convention for an agreement in writing; and

(c) Article I of the InterAmerican Convention for an agreement.

Article 1123
Number of Arbitrators and Method of Appointment

Except in respect of a Tribunal established under Article 1126, and unless the disputing parties otherwise agree, the Tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

Article 1124: Constitution of a Tribunal When a Party Fails to Appoint an Arbitrator or the Disputing Parties Are Unable to Agree on a Presiding Arbitrator

1. The Secretary-General shall serve as appointing authority for an arbitration under this Section.

2. If a Tribunal, other than a Tribunal established

under Article 1126, has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, on the request of either disputing party, shall appoint, in his discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall be appointed in accordance with paragraph 3.

3. The Secretary-General shall appoint the presiding arbitrator from the roster of presiding arbitrators referred to in paragraph 4, provided that the presiding arbitrator shall not be a national of the disputing Party or a national of the Party of the disputing investor. In the event that no such presiding arbitrator is available to serve, the Secretary-General shall appoint, from the ICSID Panel of Arbitrators, a presiding arbitrator who is not a national of any of the Parties.

4. On the date of entry into force of this Agreement, the Parties shall establish, and thereafter maintain, a roster of 45 presiding arbitrators meeting the qualifications of the Convention and rules referred to in Article 1120 and experienced in international law and investment matters. The roster members shall be appointed by consensus and without regard to nationality.

Article 1125
Agreement to Appointment of Arbitrators

For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on Article 1124(3) or on a ground other than nationality:

(a) the disputing Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;

(b) a disputing investor referred to in Article 1116 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the disputing investor agrees in writing to the appointment of each individual member of the Tribunal; and

(c) a disputing investor referred to in Article 1117(1) may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the disputing investor and the enterprise agree in writing to the appointment of each individual member of the Tribunal.

Article 1126
Consolidation

1. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, except as modified by this Section.

2. Where a Tribunal established under this Article is satisfied that claims have been submitted to arbitration under Article 1120 that have a question of law or fact in common, the Tribunal may, in the interests of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims; or

(b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

3. A disputing party that seeks an order under paragraph 2 shall request the Secretary-General to establish a Tribunal and shall specify in the request:

(a) the name of the disputing Party or disputing investors against which the order is sought;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

4. The disputing party shall deliver to the disputing Party or disputing investors against which the order is sought a copy of the request.

5. Within 60 days of receipt of the request, the Secretary-General shall establish a Tribunal comprising three arbitrators. The Secretary-General shall appoint the presiding arbitrator from the roster referred to in Article 1124(4). In the event that no such presiding arbitrator is available to serve, the Secretary-General shall appoint, from the ICSID Panel of Arbitrators, a presiding arbitrator who is not a national of any of the Parties. The Secretary-General shall appoint the two other members from the roster referred to in Article 1124(4), and to the extent not available from that roster, from the ICSID Panel of Arbitrators, and to the extent not available from that Panel, in the discretion of the Secretary-General. One member shall be a national of the disputing Party and one member shall be a national of a Party of the disputing investors.

6. Where a Tribunal has been established under this Article, a disputing investor that has submitted a claim to arbitration under Article 1116 or 1117 and that has not been named in a request made under paragraph 3 may make a written request to the Tribunal that it be included in an order made under paragraph 2, and shall specify in the request:

(a) the name and address of the disputing investor;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

7. A disputing investor referred to in paragraph 6 shall deliver a copy of its request to the disputing parties named in a request made under paragraph 3.

8. A Tribunal established under Article 1120 shall not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established under this Article has assumed jurisdiction.

9. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 2, may order that the proceedings of a Tribunal established under Article 1120 be stayed, unless the latter Tribunal has already adjourned its proceedings.

10. A disputing Party shall deliver to the Secretariat, within 15 days of receipt by the disputing Party, a copy of:

(a) a request for arbitration made under paragraph (1) of Article 36 of the ICSID Convention;

(b) a notice of arbitration made under Article 2 of Schedule C of the ICSID Additional Facility Rules; or

(c) a notice of arbitration given under the UNCITRAL Arbitration Rules.

11. A disputing Party shall deliver to the Secretariat a copy of a request made under paragraph 3:

(a) within 15 days of receipt of the request, in the case of a request made by a disputing investor;

(b) within 15 days of making the request, in the case of a request made by the disputing Party.

12. A disputing Party shall deliver to the Secretariat a copy of a request made under paragraph 6 within 15 days of receipt of the request.

13. The Secretariat shall maintain a public register of the documents referred to in paragraphs 10, 11 and 12.

Article 1127
Notice

A disputing Party shall deliver to the other Parties:

(a) written notice of a claim that has been submitted to arbitration no later than 30 days after the date that the claim is submitted; and

(b) copies of all pleadings filed in the arbitration.

Article 1128
Participation by a Party

On written notice to the disputing parties, a Party may make submissions to a Tribunal on a question of interpretation of this Agreement.

Article 1129
Documents

1. A Party shall be entitled to receive from the disputing Party, at the cost of the requesting Party a copy of:

(a) the evidence that has been tendered to the Tribunal; and

(b) the written argument of the disputing parties.

2. A Party receiving information pursuant to paragraph 1 shall treat the information as if it were a disputing Party.

Article 1130
Place of Arbitration

Unless the disputing parties agree otherwise, a Tribunal shall hold an arbitration in the territory of a Party that is a party to the New York Convention, selected in accordance with:

(a) the ICSID Additional Facility Rules if the arbitration is under those Rules or the ICSID Convention; or

(b) the UNCITRAL Arbitration Rules if the arbitration is under those Rules.

Article 1131
Governing Law

1. A Tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. An interpretation by the Commission of a provision of this Agreement shall be binding on a Tribunal established under this Section.

Article 1132
Interpretation of Annexes

1. Where a disputing Party asserts as a defense that the measure alleged to be a breach is within the scope of a reservation or exception set out in Annex I, Annex II, Annex III or Annex IV, on request of the disputing Party, the Tribunal shall request the interpretation of the Commission on the issue. The Commission, within 60 days of delivery of the request, shall submit in writing its interpretation to the Tribunal.

2. Further to Article 1131(2), a Commission interpretation submitted under paragraph 1 shall be binding on the Tribunal. If the Commission fails to submit an interpretation within 60 days, the Tribunal shall decide the issue.

Article 1133
Expert Reports

Without prejudice to the appointment of other kinds of experts where authorized by the applicable arbitration rules, a Tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on

its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

Article 1134
Interim Measures of Protection

A Tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal may not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 1116 or 1117. For purposes of this paragraph, an order includes a recommendation.

Article 1135
Final Award

1. Where a Tribunal makes a final award against a Party, the Tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest;

(b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.

A tribunal may also award costs in accordance with the applicable arbitration rules.

2. Subject to paragraph 1, where a claim is made under Article 1117(1):

(a) an award of restitution of property shall provide that restitution be made to the enterprise;

(b) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise; and

(c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic law.

3. A Tribunal may not order a Party to pay punitive damages.

Article 1136
Finality and Enforcement of an Award

1. An award made by a Tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party may not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention

(i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award, or

(ii) revision or annulment proceedings have been completed; and

(b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules

(i) three months have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or

(ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

4. Each Party shall provide for the enforcement of an award in its territory.

5. If a disputing Party fails to abide by or comply with a final award, the Commission, on delivery of a request by a Party whose investor was a party to the arbitration, shall establish a panel under Article 2008 (Request for an Arbitral Panel). The requesting Party may seek in such proceedings:

(a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and

(b) a recommendation that the Party abide by or comply with the final award.

6. A disputing investor may seek enforcement of an arbitration award under the ICSID Convention, the New York Convention or the InterAmerican Convention regardless of whether proceedings have been taken under paragraph 5.

7. A claim that is submitted to arbitration under this Section shall be considered to arise out of a commercial relationship or transaction for purposes of Article I of the New York Convention and Article I of the InterAmerican Convention.

Article 1137
General

Time when a Claim is Submitted to Arbitration

1. A claim is submitted to arbitration under this Section when:

(a) the request for arbitration under paragraph (1) of Article 36 of the ICSID Convention has been received by the Secretary-General;

(b) the notice of arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules has been received by the Secretary-General; or

(c) the notice of arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Party.

Service of Documents

2. Delivery of notice and other documents on a Party shall be made to the place named for that Party in Annex 1137.2.

Receipts under Insurance or Guarantee Contracts

3. In an arbitration under this Section, a Party shall not assert, as a defense, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Publication of an Award

4. Annex 1137.4 applies to the Parties specified in that Annex with respect to publication of an award.

Article 1138
Exclusions

1. Without prejudice to the applicability or non-applicability of the dispute settlement provisions of this Section or of Chapter Twenty (Institutional Arrangements and Dispute Settlement Procedures) to other actions taken by a Party pursuant to Article 2102 (National Security), a decision by a Party to prohibit or restrict the acquisition of an investment in its territory by an investor of another Party, or its investment, pursuant to that Article shall not be subject to such provisions.

2. The dispute settlement provisions of this Section and of Chapter Twenty shall not apply to the matters referred to in Annex 1138.2.

SECTION C
DEFINITIONS

Article 1139
Definitions

For purposes of this Chapter:

1. disputing investor means an investor that makes a claim under Section B;

2. disputing parties means the disputing investor and the disputing Party;

3. disputing party means the disputing investor or the disputing Party;

4. disputing Party means a Party against which a claim is made under Section B;

5. enterprise means an "enterprise" as defined in Article 201 (Definitions of General Application), and a branch of an enterprise;

6. enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there;

7. equity or debt securities includes voting and non-voting shares, bonds, convertible debentures, stock options and warrants;

8. G7 Currency means the currency of Canada, France, Germany, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland or the United States;

9. ICSID means the International Centre for Settlement of Investment Disputes;

10. ICSID Convention means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington, March 18, 1965;

11. InterAmerican Convention means the *InterAmerican Convention on International Commercial Arbitration*, done at Panama, January 30, 1975;

12. investment means:

(a) an enterprise;

(b) an equity security of an enterprise;

(c) a debt security of an enterprise
  (i) where the enterprise is an affiliate of the investor, or
  (ii) where the original maturity of the debt security is at least three years,
  (iii) but does not include a debt security, regardless of original maturity, of a state enterprise;

(d) a loan to an enterprise
  (i) where the enterprise is an affiliate of the investor, or
  (ii) where the original maturity of the loan is at least three years, but does not include a loan, regardless of original maturity, to a state enterprise;

(e) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

(f) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution, other than a debt security or a loan excluded from subparagraph (c) or (d);

(g) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and

(h) interests arising from the commitment of capital or other resources in the territory of a Party to economic activity in such territory, such as under
  (i) contracts involving the presence of an investor's property in the territory of the Party, including turnkey or construction contracts, or concessions, or
  (ii) contracts where remuneration depends substantially on the production, revenues or profits of an enterprise; but investment does not mean,
  (iii) claims to money that arise solely from
  (iv) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of another Party, or
  (v) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by subparagraph (d); or

(j) any other claims to money, that do not involve the kinds of interests set out in subparagraphs (a) through (h);

13. investment of an investor of a Party means an investment owned or controlled directly or indirectly by an investor of such Party;

14. investor of a Party means a Party or state enterprise thereof, or a national or an enterprise of such Party, that seeks to make, is making or has made an investment;

15. investor of a non-Party means an investor other than an investor of a Party, that seeks to make, is making or has made an investment;

16. New York Convention means the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York, June 10, 1958;

17. Secretary-General means the Secretary-General of ICSID;

18. transfers means transfers and international payments;

19. Tribunal means an arbitration tribunal established under Article 1120 or 1126; and

20. UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on December 15, 1976.

CHAPTER TWENTY
INSTITUTIONAL ARRANGEMENTS AND DISPUTE SETTLEMENT PROCEDURES

SECTION B
DISPUTE SETTLEMENT

Article 2003
Cooperation

The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article 2004
Recourse to Dispute Settlement Procedures

Except for the matters covered in Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters) and as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that an actual or proposed measure of another Party is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 2004.

Article 2005
GATT Dispute Settlement

1. Subject to paragraphs 2, 3 and 4, disputes regarding any matter arising under both this Agreement and the *General Agreement on Tariffs and Trade*, any agreement negotiated thereunder, or any successor agreement (GATT), may be settled in either forum at the discretion of the complaining Party.

2. Before a Party initiates a dispute settlement proceeding in the GATT against another Party on grounds that are substantially equivalent to those available to that Party under this Agreement, that Party shall notify any third Party of its intention. If a third Party wishes to have recourse to dispute settlement procedures under this Agreement regarding the matter, it shall inform promptly the notifying Party and those Parties shall consult with a view to agreement on a single forum. If those Parties cannot agree, the dispute normally shall be settled under this Agreement.

3. In any dispute referred to in paragraph 1 where the responding Party claims that its action is subject to Article 104 (Relation to Environmental and Conservation Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

4. In any dispute referred to in paragraph 1 that arises under Section B of Chapter Seven (Sanitary and Phytosanitary Measures) or Chapter Nine (Standards-Related Measures):

(a) concerning a measure adopted or maintained by a Party to protect its human, animal or plant life or health, or to protect its environment, and

(b) that raises factual issues concerning the environment, health, safety or conservation, including directly related scientific matters, where the responding Party requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

5. The responding Party shall deliver a copy of a request made pursuant to paragraph 3 or 4 to the other Parties and to its Section of the Secretariat. Where the complaining Party has initiated dispute settlement proceedings regarding any matter subject to paragraph 3 or 4, the responding Party shall deliver its request no later than 15 days thereafter. On receipt of such request, the complaining Party shall promptly withdraw from participation in those proceedings and may initiate dispute settlement procedures under Article 2007.

6. Once dispute settlement procedures have been initiated under Article 2007 or dispute settlement proceedings have been initiated under the GATT, the forum selected shall be used to the exclusion of the other, unless a Party makes a request pursuant to paragraph 3 or 4.

7. For purposes of this Article, dispute settlement proceedings under the GATT are deemed to be initiated by a Party's request for a panel, such as under Article XXIII:2 of the *General Agreement on Tariffs and Trade 1947*, or for a committee investigation, such as under Article 20.1 of the Customs Valuation Code.

Consultations

Article 2006
Consultations

1. Any Party may request in writing consultations with any other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement.

2. The requesting Party shall deliver the request to the other Parties and to its Section of the Secretariat.

3. Unless the Commission otherwise provides in its rules and procedures established under Article 2001(4), a third Party that considers it has a substantial interest in the matter shall be entitled to participate in the consultations on delivery of written notice to the other Parties and to its Section of the Secretariat.

4. Consultations on matters regarding perishable agricultural goods shall commence within 15 days of the date of delivery of the request.

5. The consulting Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To this end, the consulting Parties shall:

(a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) seek to avoid any resolution that adversely affects the interests under this Agreement of any other Party.

Initiation of Procedures

Article 2007
Commission - Good Offices, Conciliation and Mediation

1. If the consulting Parties fail to resolve a matter pursuant to Article 2006 within:

(a) 30 days of delivery of a request for consultations;

(b) 45 days of delivery of such request if any other Party has subsequently requested or has participated in consultations regarding the same matter;

(c) 15 days of delivery of a request for consultations in matters regarding perishable agricultural goods, or

(d) such other period as they may agree, any such Party may request in writing a meeting of the Commission.

2. A Party may also request in writing a meeting of the Commission where:

(a) it has initiated dispute settlement proceedings under the GATT regarding any matter subject to Article 2005(3) or (4), and has received a request pursuant to Article 2005(5) for recourse to dispute settlement procedures under this Chapter; or

(b) consultations have been held pursuant to Article 513 (Working Group on Rules of Origin), Article 723 (Sanitary and Phytosanitary Measures Technical Consultations) and Article 914

(Standards-Related Measures Technical Consultations).

3. The requesting Party shall state in the request the measure or other matter complained of and indicate the provisions of this Agreement that it considers relevant, and shall deliver the request to the other Parties and to its Section of the Secretariat.

4. Unless it decides otherwise, the Commission shall convene within 10 days of delivery of the request and shall endeavor to resolve the dispute promptly.

5. The Commission may:
(a) call on such technical advisers or create such working groups or expert groups as it deems necessary;

(b) have recourse to good offices, conciliation, mediation or such other dispute resolution procedures; or

(c) make recommendations, as may assist the consulting Parties to reach a mutually satisfactory resolution of the dispute;

6. Unless it decides otherwise, the Commission shall consolidate two or more proceedings before it pursuant to this Article regarding the same measure. The Commission may consolidate two or more proceedings regarding other matters before it pursuant to this Article that it determines are appropriate to be considered jointly.

Panel Proceedings

Article 2008
Request for an Arbitral Panel

1. If the Commission has convened pursuant to Article 2007(4), and the matter has not been resolved within:
(a) 30 days thereafter;

(b) 30 days after the Commission has convened in respect of the matter most recently referred to it, where proceedings have been consolidated pursuant to Article 2007(6); or

(c) such other period as the consulting Parties may agree, any consulting Party may request in writing the establishment of an arbitral panel. The requesting Party shall deliver the request to the other Parties and to its Section of the Secretariat.

2. On delivery of the request, the Commission shall establish an arbitral panel.

3. A third Party that considers it has a substantial interest in the matter shall be entitled to join as a complaining Party on delivery of written notice of its intention to participate to the disputing Parties and its Section of the Secretariat. The notice shall be delivered at the earliest possible time, and in any event no later than seven days after the date of delivery of a request by a Party for the establishment of a panel.

4. If a third Party does not join as a complaining Party in accordance with paragraph 3, it normally shall refrain thereafter from initiating or continuing:
(a) a dispute settlement procedure under this Agreement; or

(b) a dispute settlement proceeding in the GATT on grounds that are substantially equivalent to those available to that Party under this Agreement, regarding the same matter in the absence of a significant change in economic or commercial circumstances.

5. Unless otherwise agreed by the disputing Parties, the panel shall be established and perform its functions in a manner consistent with the provisions of this Chapter.

Article 2009
Roster

1. The Parties shall establish by January 1, 1994 and maintain a roster of up to 30 individuals who are willing and able to serve as panelists. The roster members shall be appointed by consensus for terms of three years, and may be reappointed.

2. Roster members shall:
(a) have expertise or experience in law, international trade, other matters covered by this Agreement or the resolution of disputes arising under international trade agreements, and shall be chosen strictly on the basis of objectivity, reliability and sound judgment;

(b) be independent of, and not be affiliated with or take instructions from, any Party; and

(c) comply with a code of conduct to be established by the Commission.

Article 2010
Qualifications of Panelists

1. All panelists shall meet the qualifications set out in Article 2009(2).

2. Individuals may not serve as panelists for a dispute in which they have participated pursuant to Article 2007(5).

Article 2011
Panel Selection

1. Where there are two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members;

(b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the disputing Party chosen by lot shall select within five days as chair an individual who is not a citizen of that Party;

(c) Within 15 days of selection of the chair, each disputing Party shall select two panelists who are citizens of the other disputing Party;

(d) If a disputing Party fails to select its panelists within such period, such panelists shall be selected by lot from among the roster members who are citizens of the other disputing Party.

2. Where there are more than two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members;

(b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the Party or Parties on the side of the dispute chosen by lot shall select within 10 days a chair who is not a citizen of such Party or Parties;

(c) Within 15 days of selection of the chair, the Party complained against shall select two panelists, one of whom is a citizen of a complaining Party, and the other of whom is a citizen of another complaining Party. The complaining Parties shall select two panelists who are citizens of the Party complained against;

(d) If any disputing Party fails to select a panelist within such period, such panelist shall be selected by lot in accordance with the citizenship criteria of subparagraph (c).

3. Panelists shall normally be selected from the roster. Any disputing Party may exercise a peremptory challenge against any individual not on the roster who is proposed as a panelist by a disputing Party within 15 days after the individual has been proposed.

4. If a disputing Party believes that a panelist is in violation of the code of conduct, the disputing Parties shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article 2012
Rules of Procedure

1. The Commission shall establish by January 1, 1994 Model Rules of Procedure, in accordance with the following principles:

(a) the procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide initial and rebuttal written submissions; and

(b) the panel's hearings, deliberations and initial report, and all written submissions to and communications with the panel shall be confidential.

2. Unless the disputing Parties otherwise agree, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure.

3. Unless the disputing Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the panel, the terms of reference shall be:
"To examine, in the light of the relevant provisions of the Agreement, the matter referred to the Commission (as set out in the request for a Commission meeting) and to make findings, determinations and recommendations as provided in Article 2016(2)."

4. If a complaining Party wishes to argue that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

5. If a disputing Party wishes the panel to make findings as to the degree of adverse trade effects on any Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Annex 2004, the terms of reference shall so indicate.

Article 2013
Third Party Participation

A Party that is not a disputing Party, on delivery of a written notice to the disputing Parties and to its Section of the Secretariat, shall be entitled to attend all hearings, to make written and oral submissions to the panel and to receive written submissions of the disputing Parties.

Article 2014
Role of Experts

On request of a disputing Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the disputing Parties so agree and subject to such terms and conditions as such Parties may agree.

Article 2015
Scientific Review Boards

1. On request of a disputing Party or, unless the disputing Parties disapprove, on its own initiative, the panel may request a written report of a scientific review board on any factual issue concerning environmental, health, safety or other

scientific matters raised by a disputing Party in a proceeding, subject to such terms and conditions as such Parties may agree.

2. The board shall be selected by the panel from among highly qualified, independent experts in the scientific matters, after consultations with the disputing Parties and the scientific bodies set out in the Model Rules of Procedure established pursuant to Article 2012(1).

3. The participating Parties shall be provided:
(a) advance notice of, and an opportunity to provide comments to the panel on, the proposed factual issues to be referred to the board; and

(b) a copy of the board's report and an opportunity to provide comments on the report to the panel.

4. The panel shall take the board's report and any comments by the Parties on the report into account in the preparation of its report.

Article 2016
Initial Report

1. Unless the disputing Parties otherwise agree, the panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to Article 2014 or 2015.

2. Unless the disputing Parties otherwise agree, the panel shall, within 90 days after the last panelist is selected or such other period as the Model Rules of Procedure established pursuant to Article 2012(1) may provide, present to the disputing Parties an initial report containing:
(a) findings of fact, including any findings pursuant to a request under Article 2012(5);

(b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 2004, or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for resolution of the dispute.

3. Panelists may furnish separate opinions on matters not unanimously agreed.

4. A disputing Party may submit written comments to the panel on its initial report within 14 days of presentation of the report.

5. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of any disputing Party, may:
(a) request the views of any participating Party;

(b) reconsider its report; and

(c) make any further examination that it considers appropriate.

Article 2017
Final Report

1. The panel shall present to the disputing Parties a final report, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the disputing Parties otherwise agree.

2. No panel may, either in its initial report or its final report, disclose which panelists are associated with majority or minority opinions.

3. The disputing Parties shall transmit to the Commission the final report of the panel, including any report of a scientific review board established under Article 2015, as well as any written views that a disputing Party desires to be appended, on a confidential basis within a reasonable period of time after it is presented to them.

4. Unless the Commission decides otherwise, the final report of the panel shall be published 15 days after it is transmitted to the Commission.

Implementation of Panel Reports

Article 2018
Implementation of Final Report

1. On receipt of the final report of a panel, the disputing Parties shall agree on the resolution of the dispute, which normally shall conform with the determinations and recommendations of the panel, and shall notify their Sections of the Secretariat of any agreed resolution of any dispute.

2. Wherever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment in the sense of Annex 2004 or, failing such a resolution, compensation.

Article 2019
Non-Implementation-Suspension of Benefits

1. If in its final report a panel has determined that a measure is inconsistent with the obligations of this Agreement or causes nullification or impairment in the sense of Annex 2004 and the Party complained against has not reached agreement with any complaining Party on a mutually satisfactory resolution pursuant to Article 2018(1) within 30 days of receiving the final report, such complaining Party may suspend the application to the Party complained against of benefits of equivalent effect until such time as they have reached agreement on a resolution of the dispute.

2. In considering what benefits to suspend pursuant to paragraph 1:

(a) a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Annex 2004; and

(b) a complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. On the written request of any disputing Party delivered to the other Parties and its Section of the Secretariat, the Commission shall establish a panel to determine whether the level of benefits suspended by a Party pursuant to paragraph 1 is manifestly excessive.

4. The panel proceedings shall be conducted in accordance with the Model Rules of Procedure. The panel shall present its determination within 60 days after the last panelist is selected or such other period as the disputing Parties may agree.

SECTION C
DOMESTIC PROCEEDINGS AND PRIVATE COMMERCIAL DISPUTE SETTLEMENT

Article 2020
Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in any domestic judicial or administrative proceeding of a Party that any Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Parties and its Section of the Secretariat. The Commission shall endeavor to agree on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum.

3. If the Commission is unable to agree, any Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article 2021
Private Rights

No Party may provide for a right of action under its domestic law against any other Party on the ground that a measure of another Party is inconsistent with this Agreement.

Article 2022
Alternative Dispute Resolution

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards* or the 1975 *InterAmerican Convention on International Commercial Arbitration*.

4. The Commission shall establish an Advisory Committee on Private Commercial Disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. The Committee shall report and provide recommendations to the Commission on general issues referred to it by the Commission respecting the availability, use and effectiveness of arbitration and other procedures for the resolution of such disputes in the free trade area.

71. NORTH AMERICAN AGREEMENT ON ENVIRONMENTAL COOPERATION

PREAMBLE

The Government of the United States of America, the Government of Canada and the Government of the United Mexican States:

Convinced of the importance of the conservation, protection and enhancement of the environment in their territories and the essential role of cooperation in these areas in achieving sustainable development for the well-being of present and future generations;

Reaffirming the sovereign right of States to exploit their own resources pursuant to their own environmental and development policies and their responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Recognizing the interrelationship of their environments;

Acknowledging the growing economic and social links between them, including the North American Free Trade Agreement (NAFTA);

Reconfirming the importance of the environmental goals and objectives of the NAFTA, including enhanced levels of environmental protection;

Emphasizing the importance of public participation in conserving, protecting and enhancing the environment;

Noting the existence of differences in their respective natural endowments, climatic and geographical conditions, and economic, technological and infrastructural capabilities;

Reaffirming the Stockholm Declaration on the Human Environment of 1972 and the Rio Declaration on Environment and Development of 1992;

Recalling their tradition of environmental cooperation and expressing their desire to support and build on international environmental agreements and existing policies and laws, in order to promote cooperation between them; and

Convinced of the benefits to be derived from a framework, including a Commission, to facilitate effective cooperation on the conservation, protection and enhancement of the environment in their territories;

Have Agreed as Follows:

PART ONE
OBJECTIVES

Article 1
Objectives

The objectives of this Agreement are to:

(a) foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations;

(b) promote sustainable development based on cooperation and mutually supportive environmental and economic policies;

(c) increase cooperation between the Parties to better conserve, protect, and enhance the environment, including wild flora and fauna;

(d) support the environmental goals and objectives of the NAFTA;

(e) avoid creating trade distortions or new trade barriers;

(f) strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices;

(g) enhance compliance with, and enforcement of, environmental laws and regulations;

(h) promote transparency and public participation in the development of environmental laws, regulations and policies;

(i) promote economically efficient and effective environmental measures, and promote pollution prevention policies and practices.

PART TWO
OBLIGATIONS

Article 2
General Commitments

1. Each Party shall, with respect to its territory:

(a) periodically prepare and make publicly available reports on the state of the environment;

(b) develop and review environmental emergency preparedness measures;

(c) promote education in environmental matters, including environmental law;

(d) further scientific research and technology development in respect of environmental matters;

(e) assess, as appropriate, environmental impacts; and

(f) promote the use of economic instruments for the efficient achievement of environmental goals.

2. Each Party shall consider implementing in its law any recommendation developed by the Council under Article 10(5)(b).

3. Each Party shall consider prohibiting the export to the territories of the other Parties of a pesticide or toxic substance whose use is prohibited within the Party's territory. When a Party adopts a measure prohibiting or severely restricting the use of a pesticide or toxic substance in its territory, it shall notify the other Parties of the measure, either directly or through an appropriate international organization.

Article 3
Levels of Protection

Recognizing the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations, each Party shall ensure that its laws and regulations provide for high levels of environmental protection and shall strive to continue to improve those laws and regulations.

Article 4
Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and Parties to become acquainted with them.

2. To the extent possible, each Party shall:
(a) publish in advance any such measure that it proposes to adopt; and

(b) provide interested persons and Parties a reasonable opportunity to comment on such proposed measures.

Article 5
Government Enforcement Action

1. With the aim of achieving high levels of environmental protection and compliance with its environmental laws, and regulations, each Party shall effectively enforce its environmental laws and regulations through appropriate governmental action, subject to Article 37, such as:
(a) appointing and training inspectors;

(b) monitoring compliance and investigating suspected violations, including through on-site inspections;

(c) seeking assurances of voluntary compliance and compliance agreements;

(d) publicly releasing non-compliance information;

(e) issuing bulletins or other periodic statements on enforcement procedures;

(f) promoting environmental audits;

(g) requiring record keeping and reporting;

(h) providing or encouraging, mediation and arbitration services;

(i) using licensee, permits or authorizations;

(j) initiating, in a timely manner, judicial, quasi-judicial or administrative proceedings to seek appropriate sanctions or remedies for violations of its environmental laws and regulations;

(k) providing for search, seizure or detention; or

(l) issuing administrative orders, including orders of a preventative, curative or emergency nature.

2. Each Party shall ensure that judicial, quasi-judicial or administrative enforcement proceedings are available under its law to sanction or remedy violations of its environmental laws and regulations.

3. Sanctions and remedies provided for a violation of a Party's environmental laws and regulations shall, as appropriate:
(a) take into consideration the nature and gravity of the violation, any economic benefit derived from the violation by the violator, the economic condition of the violator, and other relevant factors; and

(b) include compliance agreements, fines, imprisonment, injunctions, the closure of facilities, and the cost of containing or cleaning up pollution.

Article 6
Private Access to Remedies

1. Each Party shall ensure that interested persons may request the Party's competent authorities to investigate alleged violations of its environmental laws and regulations and shall give such requests due consideration in accordance with law.

2. Each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial or judicial proceedings for the enforcement of the Party's environmental laws and regulations.

3. Private access to remedies shall include rights, in accordance with the Party's law, such as:

(a) to sue another person under that Party's jurisdiction for damages;

(b) to seek sanctions or remedies such as monetary penalties, emergency closures or orders to mitigate the consequences of violations, of its environmental laws and, regulations;

(c) to request the competent authorities to take appropriate action to enforce that Party's environmental laws and regulations in order to protect the environment or to avoid environmental harm; or

(d) to seek injunctions where a person suffers, or may suffer loss, damage or injury as a result of conduct by another person under that Party's jurisdiction contrary to that Party's environmental laws and regulations or from tortious conduct.

Article 7
Procedural Guarantees

1. Each Party shall ensure that its administrative, quasijudicial and judicial proceedings referred to in Articles 5(2) and 6(2) are fair, open and equitable, and to this end shall provide that such proceedings:
(a) comply with due process of law;

(b) are open to the public, except where the administration of justice otherwise requires;

(c) entitle the parties to the proceedings to support or defend their respective positions and to present information or evidence; and

(d) are not unnecessarily complicated and do not entail unreasonable charges or time limits or unwarranted delays.

2. Each Party shall provide that final decisions on the merits of the case in such proceedings are:
(a) in writing and preferably state the reasons on which the decisions are based;

(b) made available without undue delay to the parties to the proceedings and, consistent with its law, to the public; and

(c) based on information or evidence in respect of which the parties were offered the opportunity to be heard.

3. Each Party shall provide, as appropriate, that parties to such proceedings have the right, in accordance with its law, to seek review and, where warranted, correction of final decisions issued in such proceedings.

4. Each Party shall ensure that tribunals that conduct or review such proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter.

PART THREE
COMMISSION FOR ENVIRONMENTAL COOPERATION

Article 8
The Commission

1. The Parties hereby establish the Commission for Environmental Cooperation.

2. The Commission shall comprise a Council, a Secretariat and a Joint Public Advisory Committee.

SECTION A
THE COUNCIL

Article 9
Council Structure and Procedures

1. The Council shall comprise cabinet-level or equivalent representatives of the Parties, or their designees.

2. The Council shall establish its rules and procedures.

3. The Council shall convene:
(a) at least once a year in regular session; and

(b) in special session at the request of any Party. Regular sessions shall be chaired successively by each Party.

4. The Council shall hold public meetings in the course of all regular sessions. Other meetings held in the course of regular or special sessions shall be public where the Council so decides.

5. The Council may:
(a) establish, and assign responsibilities to, ad hoc or standing committees, working groups or expert groups;

(b) seek the advice of non-governmental organizations or persons, including independent experts; and

(c) take such other action in the exercise of its functions as the Parties may agree.

6. All decisions and recommendations of the Council shall be taken by consensus, except as the Council may otherwise decide or as otherwise provided in this Agreement.

7. All decisions and recommendations of the Council shall be made public, except as the Council may otherwise decide or as otherwise provided in this Agreement.

Article 10
Council Functions

1. The Council shall be the governing body of the Commission and shall:

(a) serve as a forum for the discussion of environmental matters within the scope of this Agreement;

(b) oversee the implementation and develop recommendations on the further elaboration of this Agreement and, to this end, the Council shall, within four years after the date of entry into force of this Agreement, review its operation and effectiveness in the light of experience;

(c) oversee the Secretariat;

(d) address questions and differences that may arise between the Parties regarding the interpretation or application of this Agreement;

(e) approve the annual program and budget of the Commission; and

(f) promote and facilitate cooperation between the Parties with respect to environmental matters.

2. The Council may consider, and develop recommendations regarding:

(a) comparability of techniques and methodologies for data gathering and analysis, data management and electronic data communications on matters covered by this Agreement;

(b) pollution prevention techniques and strategies;

(c) approaches and common indicators for reporting on the state of the environment;

(d) the use of economic instruments for the pursuit of domestic and internationally agreed environmental objectives;

(e) scientific research and technology development in respect of environmental matters;

(f) promotion of public awareness regarding the environment;

(g) transboundary and border environmental issues, such as the long- range transport of air and marine pollutants;

(h) exotic species that may be harmful;

(i) the conservation and protection of wild flora and fauna and their habitat, and specially protected natural areas;

(j) the protection of endangered and threatened species;

(k) environmental emergency preparedness and response activities;

(l) environmental matters as they relate to economic development;

(m) the environmental implications of goods throughout their life cycles;

(n) human resource training and development in the environmental field;

(o) the exchange of environmental scientists and officials;

(p) approaches to environmental compliance and enforcement;

(q) ecologically sensitive national accounts;

(r) eco-labelling; and

(s) other matters as it may decide.

3. The Council shall strengthen cooperation on the development and continuing improvement of environmental laws and regulations, including by:

(a) promoting the exchange of information on criteria and methodologies used in establishing domestic environmental standards; and

(b) without reducing levels of environmental protection, establishing a process for developing recommendations on greater compatibility of environmental technical regulations, standards and conformity assessment procedures in a manner consistent with the NAFTA.

4. The Council shall encourage:

(a) effective enforcement by each Party of its environmental laws and regulations;

(b) compliance with those laws and regulations; and

(c) technical cooperation between the Parties.

5. The Council shall promote and, as appropriate, develop recommendations regarding:

(a) public access to information concerning the environment that is held by public authorities of each Party, including information on hazardous materials and activities in its communities, and opportunity to participate in decision making processes related to such public access; and

(b) appropriate limits for specific pollutants, taking into account differences in ecosystems.

6. The Council shall cooperate with the NAFTA Free Trade Commission to achieve the environmental goals and objectives of the NAFTA by:

(a) acting as a point of inquiry and receipt for comments from non- governmental organizations and persons concerning those goals and objectives;

(b) providing assistance in consultations under Article 1/14 of the NAFTA where a Party considers that another Party is waiving or derogating from, or offering to waive or otherwise derogate from, an environmental measure as an encouragement to establish, acquire, expand or retain an investment of an investor, with a view to avoiding any such encouragement;

(c) contributing to the prevention or resolution of environment- related trade disputes by:
(i) seeking to avoid disputes between the Parties,
(ii) making recommendations to the Free Trade Commission with respect to the avoidance of such disputes, and
(iii) identifying experts able to provide information or technical advice to NAFTA committees, working groups and other NAFTA bodies;

(d) considering on an ongoing basis the environmental effects of the NAFTA; and

(e) otherwise assisting the Free Trade Commission in environment- related matters.

7. Recognizing the significant bilateral nature of many transboundary environmental issues, the Council shall, with a view to agreement, between the Parties pursuant to this Article within three years on obligations, consider and develop recommendations with respect to:
(a) assessing the environmental impact of proposed projects subject to decisions by a competent government authority and likely to cause significant adverse transboundary effects, including a full evaluation of comments provided by other Parties and persons of other Parties;

(b) notification, provision of relevant information and consultation between Parties with respect to such projects; and mitigation of the potential adverse effects of such projects.

8. The Council shall encourage the establishment by each Party of appropriate administrative procedures pursuant to its environmental laws to permit another Party to seek the reduction, elimination or mitigation of transboundary pollution on a reciprocal basis.

9. The Council shall consider and, as appropriate, develop recommendations on the provision by a Party, on a reciprocal basis, of access to and rights and remedies before its courts and administrative agencies for persons in another Party's territory who have suffered or are likely to suffer damage or injury caused by pollution originating in its territory as if the damage or injury were suffered in its territory.

PART FOUR
COOPERATION AND PROVISION OF INFORMATION

Article 20
Cooperation

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to resolve any matter that might affect its operation.

2. To the maximum extent possible, each Party shall notify any other Party with an interest in the matter of any proposed or actual environmental measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect that other Party's interests under this Agreement.

3. On request of any other Party, a Party shall promptly provide information and respond to questions pertaining to any such actual or proposed environmental measure, whether or not that other Party has been previously notified of that measure.

4. Any Party may notify any other Party of, and provide to that Party, any credible information regarding possible violations of its environmental law, specific and sufficient to allow the other Party to inquire into the matter. The notified Party shall take appropriate steps in accordance with its law to so inquire and to respond to the other Party.

Article 21
Provision of Information

1. On request of the Council or the Secretariat, each Party shall, in accordance with its law, provide such information as the Council or the Secretariat may require, including:
(a) promptly making available any information in its possession required for the preparation of a report or factual record, including compliance and enforcement data; and

(b) taking all reasonable steps to make available any other such information requested.

2. If a Party considers that a request for information from the Secretariat is excessive or otherwise unduly burdensome, it may so notify the Council. The Secretariat shall revise the scope of its request to comply with any limitations established by the Council by a two-thirds vote.

3. If a Party does not make available information requested by the Secretariat, as may be limited pursuant to paragraph 2, it shall promptly advise the Secretariat of its reasons in writing.

PART FIVE
CONSULTATION AND RESOLUTION OF DISPUTES

Article 22
Consultations

1. Any Party may request in writing consultations with any other Party regarding whether there has been a persistent pattern of failure by that other Party to effectively enforce its environmental law.

2. The requesting Party shall deliver the request to the other Parties and to the Secretariat.

3. Unless the Council otherwise provides in its rules and procedures established under Article 9(2), a third Party that considers it has a substantial interest in the matter shall be entitled to participate in the consultations on delivery of written notice to the other Parties and to the Secretariat.

4. The consulting Parties shall make-every attempt to arrive at a mutually satisfactory resolution of the matter through consultations under this Article.

Article 23
Initiation of Procedures

1. If the consulting Parties fail to resolve the matter pursuant to Article 22 within 60 days of delivery of a request for consultations, or such other period as the consulting Parties may agree, any such Party may request in writing a special session of the Council.

2. The requesting Party shall state in the request the matter complained of and shall deliver the request to the other Parties and to the Secretariat.

3. Unless it decides otherwise, the Council shall convene within 20 days of delivery of the request and shall endeavor to resolve the dispute promptly.

4. The Council may:

(a) call on such technical advisers or create such working groups or expert groups as it deems necessary;

(b) have recourse to good offices, conciliation, mediation or such other dispute resolution procedures;or

(c) make recommendations, as may assist the consulting Parties to reach a mutually satisfactory resolution of the dispute. Any such recommendations shall be made public if the Council, by a two- thirds vote, so decides.

5. Where the Council decides that a matter is more property covered by another agreement or arrangement to which the consulting Parties are party, it shall refer the matter to those Parties for appropriate action in accordance with such other agreement or arrangement.

Article 24
Request for an Arbitral Panel

1. If the matter has not been resolved within 60 days after the Council has convened pursuant to Article 23, the Council shall, on the written request of any consulting Party and by a two-thirds vote, convene an arbitral panel to consider the matter where the alleged persistent pattern of failure by the Party complained against to effectively enforce its environmental law relates to a situation involving workplaces, firms, companies or sectors that produce goods or provide services:

(a) traded between the territories of the Parties; or

(b) that compete, in the territory of the Party complained against, with goods or services produced or provided by persons of another Party.

2. A third Party that considers it has a substantial interest in the matter shall be entitled to join as a complaining Party on delivery of written notice of its intention to participate to the disputing Parties and the Secretariat. The notice shall be delivered at the earliest possible time, and in any event no later than seven days after the date of the vote of the Council to convene a panel.

3. Unless otherwise agreed by the disputing Parties, the panel shall be established and perform its functions in a manner consistent with the provisions of this Part.

Article 25
Roster

1. The Council shall establish and maintain a roster of up to 45 individuals who are willing and able to serve as panelists. The roster members shall be appointed by consensus for terms of three years, and may be reappointed.

2. Roster members shall:

(a) have expertise or experience in environmental law or its enforcement, or in the resolution of disputes arising under international agreements, or other relevant scientific, technical or professional expertise or experience;

(b) be chosen strictly on the basis of objectivity, reliability and sound judgment;

(c) be independent of, and not be affiliated with or take instructions from, any Party, the Secretariat or the Joint Public Advisory Committee; and

(d) comply with a code of conduct to be established by the Council.

Article 26
Qualifications of Panelists

1. All panelists shall meet the qualifications set out in Article 25(2).

2. Individuals may not serve as panelists for a dispute in which:

(a) they have participated pursuant to Article 23(4); or

(b) they have, or a person or organization with which they are affiliated has, an interest, as set out in the code of conduct established under Article 25(2)(d).

Article 27
Panel Selection

1. Where there are two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members;

(b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days after the Council votes to convene the panel. If the disputing Parties are unable to agree on the chair within this period, the disputing Party chosen by lot shall select within five days a chair who is not a citizen of that Party;

(c) Within 15 days of selection of the chair, each disputing Party shall select two panelists who are citizens of the other disputing Party;

(d) If a disputing Party fails to select its panelists within such period, such panelists shall be selected by lot from among the roster members who are citizens of the other disputing Party.

2. Where there are more than two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members;

(b) The disputing Parties, shall endeavor to agree on the chair of the panel within 15 days after the Council votes to convene the panel. If the disputing Parties are unable to agree on the chair within this period, the Party or Parties or the side of the dispute chosen by lot shall select within 10 days a chair who is not a citizen of such Party or Parties;

(c) Within 30 days of selection of the chair, the Party complained against shall select two panelists, one of whom is a citizen of a complaining Party, and the other of whom is a citizen of another complaining Party. The complaining Parties shall select two panelists who are citizens of the Party complained against.

(d) If any disputing Party fails to select a panelist within such period, such panelist shall be selected by lot in accordance with the citizenship criteria of subparagraph (c).

3. Panelists shall normally be selected from the roster. Any disputing Party may exercise a peremptory challenge against any individual not on the roster who is proposed as a panelist by a disputing Party within 30 days after the individual has been proposed.

4. If a disputing Party believes that a panelist is in violation of the code of conduct, the disputing Parties shall consult and, if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article 28
Rules of Procedure

1. The Council shall establish Model Rules of Procedure. The procedures shall provide:

(a) a right to at least one hearing before the panel;

(b) the opportunity to make initial and rebuttal written submissions; and

(c) that no panel may disclose which panelists are associated with majority or minority opinions.

2. Unless the disputing Parties otherwise agree, panels convened under this Part shall be established and conduct their proceedings in accordance with the Model Rules of Procedure 3. Unless the disputing Parties otherwise agree within 20 days after the Council votes to convene the panel, the terms of reference shall be:
"To examine, in light of the relevant provisions of the Agreement, including those contained in Part Five, whether there has been a persistent pattern of failure by the Party complained against to effectively enforce its environmental law, and to make findings, determinations and recommendations in accordance with Article 31(2).

Article 29
Third Party Participation

A Party that is not a disputing Party, on delivery of a written notice to the disputing Parties and to the Secretariat, shall be entitled to attend all hearings, to make written and oral submissions to the panel and to receive written submissions of the disputing Parties.

Article 30
Role of Experts

On request of a disputing Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the disputing Parties so agree and subject to such terms and conditions as such Parties may agree.

Article 31
Initial Report

1. Unless the disputing Parties otherwise agree, the panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to Article 30. 2. Unless the disputing Parties otherwise agree, the panel shall, within 180 days after the last panelist is selected, present to the disputing Parties an initial report containing:

(a) findings of fact;

(b) its determination as to whether there has been a persistent pattern of failure by the Party complained against to effectively enforce its environmental law, or any other determination requested in the terms of reference; and

(c) in the event the panel makes an affirmative determination under subparagraph (b), its recommendations, if any, for the resolution of the dispute, which normally shall be that the Party complained against adopt and implement an action plan sufficient to remedy the pattern of non-enforcement.

2. Panelists may furnish separate opinions on matters not unanimously agreed.

3. A disputing Party may submit written comments to the panel on its initial report within 30 days of presentation of the report.

4. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of any disputing Party, may:

(a) request the views of any participating Party;

(b) reconsider its report; and

(c) make any further examination that it considers appropriate.

Article 32
Final Report

1. The panel shall present to the disputing Parties a final report, including any separate opinions on matters not unanimously agreed, within 60 days of presentation of the initial report, unless the disputing Parties otherwise agree.

2. The disputing Parties shall transmit to the Council the final report of the panel, as well as any written views that a disputing Party desires to be appended, on a confidential basis within 15 days after it is presented to them.

3. The final report of the panel shall be published five days after it is transmitted to the Council.

Article 33
Implementation of Final Report

If, in its final report, a panel determines that there has been a persistent pattern of failure by the Party complained against to effectively enforce its environmental law, the disputing Parties may agree on a mutually satisfactory action plan, which normally shall conform with the determinations and recommendations of the panel. The disputing Parties shall promptly notify the Secretariat and the Council of any agreed resolution of the dispute.

Article 34
Review of Implementation

1. If, in its final report, a panel determines that there has been a persistent pattern of failure by the Party complained against to effectively enforce its environmental law, and:

(a) the disputing Parties have not agreed on an action plan under Article 33 within 60 days of the date of the final report; or

(b) the disputing Parties cannot agree on whether the Party complained against is fully implementing:
   (i) an action plan agreed under Article 33,
   (ii) an action plan deemed to have been established by a panel under paragraph 2, or
   (iii) an action plan approved or established by a panel under paragraph 4,

Any disputing Party may request that the panel be reconvened. The requesting Party shall deliver the request in writing to the other Parties and to the Secretariat. The Council shall reconvene the panel on delivery of the request to the Secretariat.

2. No Party may make a request under paragraph 1 (a) earlier than 60 days, or later than 120 days, after the date of the final report. If the disputing Parties have not agreed to an action plan and if no request was made under paragraph 1 (a), the last action plan, if any, submitted by the Party complained against to the complaining Party or Parties within 60 days of the date of the final report, or such other period as the disputing Parties may agree, shall be deemed to have been established by the panel 120 days after the date of the final report.

3. A request under paragraph 1(b) may be made no earlier than 180 days after an action plan has been:

(a) agreed under Article 33;

(b) deemed to have been established by a panel under paragraph 2; or

(c) approved or established by a panel under paragraph 4, and only during the term of any such action plan.

4. Where a panel has been reconvened under paragraph l(a), it:

(a) shall determine whether any action plan proposed by the Party complained against is sufficient to remedy the pattern of non- enforcement and
   (i) if so, shall approve the plan, or
   (ii) if not, shall establish such a plan consistent with the law of the Party complained against; and

(b) may, where warranted, impose a monetary enforcement assessment in accordance with Annex 34, within 90 days after the panel, has been reconvened or such other period as the disputing Parties may agree.

5. Where a panel has been reconvened under paragraph 1(b), it shall determine either that:
(a) the Party complained against is fully implementing the action plan, in which case the panel may not impose a monetary enforcement assessment; or

(b) the Party complained against is not fully implementing the action plan, in which case the panel shall impose a monetary enforcement assessment in accordance with Annex 34, within 60 days after it has been reconvened or such other period as the disputing Parties may agree.

6. A panel reconvened under this Article shall provide that the Party complained against shall fully implement any action plan referred to in paragraph 4(a)(ii) or 5(b), and pay any monetary enforcement assessment imposed under paragraph 4(b) or 5(b), and any such provision shall be final.

Article 35
Further Proceeding

A complaining Party may, at any time beginning 180 days after a panel determination under Article 34(5)(b), request in writing that a panel be reconvened to determine whether the Party complained against is fully implementing the action plan. On delivery of the request to the other Parties a Secretariat, the Council shall reconvene the panel. The panel shall make the determination within 60 days after it has been reconvened or such other period as the disputing Parties may agree.

Article 36
Suspension of Benefits

1. Subject to Annex 36A, where a Party fails to pay a monetary enforcement assessment within 180 days after it is imposed by a panel:
(a) under Article 34(4)(b), or

(b) under Article 34(5)(b), except where benefits may be suspended under paragraph 2(a), any complaining Party or Parties may suspend, in accordance with Annex 36B, the application to the Party complained against of NAFTA benefits in an amount no greater than that sufficient to collect the monetary enforcement assessment.

2. Subject to Annex 36A where a panel has made a determination under Article 34(5)(b) and the panel:
(a) has previously imposed a monetary enforcement assessment under Article 34(4)(b) or established an action plan under Article 34(4)(a)(ii); or

(b) has subsequently determined under Article 35 that a Party is not fully implementing an action plan; the complaining Party or Parties may, in accordance with Annex 36B, suspend annually the application to the Party complained against, of NAFTA benefits in an amount no greater than the monetary enforcement assessment imposed by the panel under Article. 34(5)(b).

3. Where more than one complaining Party suspends benefits under paragraph 1 or 2, the combined suspension shall be no greater than the amount of the monetary enforcement assessment.

4. Where a Party has suspended benefits under paragraph 1 or 2, the Council shall, on the delivery of a written request by the Party complained against to the other Parties and the Secretariat, reconvene the panel to determine whether the monetary enforcement assessment has been paid or collected, or whether the Party complained against is fully implementing the action plan, as the case may be. The panel shall submit its report within 45 days after it has been reconvened. If the panel determines that the assessment has been paid or collected, or that the Party complained against is fully implementing the action plan, the suspension of benefits under paragraph 1 or 2, as the case may be, shall be terminated.

5. On the written request of the Party complained against, delivered to the other Parties and the Secretariat, the Council shall reconvene the panel to determine whether the suspension of benefits by the complaining Party or Parties pursuant to paragraph 1 or 2 is manifestly excessive. Within 45 days of the request, the panel shall present a report to the disputing Parties containing its determination.

PART SIX
GENERAL PROVISIONS

Article 37
Enforcement Principle

Nothing in this Agreement shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of another Party.

Article 38
Private Rights

No Party may provide for a right of action under its law against any other Party on the ground that another Party has acted in a manner inconsistent with this Agreement.

Article 39
Protection of Information

1. Nothing in this Agreement shall be construed to require a Party to make available or allow access to information:

(a) the disclosure of which would impede its environmental law enforcement; or

(b) that is protected from disclosure by its law governing business or proprietary information, personal privacy or the confidentiality of governmental decision making.

2. If a Party provides confidential or proprietary information to another Party, the Council, the Secretariat or the Joint Public Advisory Committee, the recipient shall treat the information on the same basis as the Party providing the information.

3. Confidential or proprietary information provided by a Party to a panel under this Agreement shall be treated in accordance with the rules of procedure established under Article 28.

Article 40
Relation to Other Environmental Agreements

Nothing in this Agreement shall be construed to affect the existing rights and obligations of the Parties under other international environmental agreements, including conservation agreements, to which such Parties are party.

72. URUGUAY ROUND AGREEMENTS

FINAL ACT EMBODYING THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

1. Having met in order to conclude the Uruguay Round of Multilateral Trade Negotiations, representatives of the governments and of the European Communities, members of the Trade Negotiations Committee, *agree* that the Agreement Establishing the World Trade Organization (referred to in this Final Act as the "WTO Agreement"), the Ministerial Declarations and Decisions, and the Understanding on Commitments in Financial Services, as annexed hereto, embody the results of their negotiations and form an integral part of this Final Act.

2. By signing the present Final Act, the representatives *agree*

(a) to submit, as appropriate, the WTO Agreement for the consideration of their respective competent authorities with a view to seeking approval of the Agreement in accordance with their procedures; and

(b) to adopt the Ministerial Declarations and Decisions.

3. The representatives *agree* on the desirability of acceptance of the WTO Agreement by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as "participants") with a view to its entry into force by 1 January 1995, or as early as possible thereafter. Not later than late 1994, Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results, including the timing of their entry into force.

4. The representatives *agree* that the WTO Agreement shall be open for acceptance as a whole, by signature or otherwise, by all participants pursuant to Article XIV thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

5. Before accepting the WTO Agreement, participants which are not contracting parties to the General Agreement on Tariffs and Trade must first have concluded negotiations for their accession to the General Agreement and become contracting parties thereto. For participants which are not contracting parties to the General Agreement as of the date of the Final Act, the Schedules are not definitive and shall be subsequently completed for the purpose of their accession to the General Agreement and acceptance of the WTO Agreement.

6. This Final Act and the texts annexed hereto shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish to each participant a certified copy thereof.

DONE at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

[List of signatures to be included in the treaty copy of the Final Act for signature]

AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION (MARRAKESH AGREEMENT)

The Parties to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

Article I
Establishment of the Organization

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

Article II
Scope of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.

2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members.

3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as "GATT 1994") is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as "GATT 1947").

Article III
Functions of the WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "Dispute Settlement Understanding" or "DSU") in Annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the "TPRM") provided for in Annex 3 to this Agreement.

5.With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

Article IV
Structure of the WTO

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Council for TRIPS"),

which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A. The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services (hereinafter referred to as "GATS"). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Agreement on TRIPS"). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all Members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

Article V
Relations with Other Organizations

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.

2. The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.

Article VI
The Secretariat

1. There shall be a Secretariat of the WTO (hereinafter referred to as "the Secretariat") headed by a Director-General.

2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.

3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.

4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

Article VII
Budget and Contributions

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.

2.The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

(a) the scale of contributions apportioning the expenses of the WTO among its Members; and

(b) the measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947.

3. The General Council shall adopt the financial regulations and the annual budget estimate by a two-thirds majority comprising more than half of the Members of the WTO.

4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

Article VIII
Status of the WTO

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.

2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.

3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.

4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.

5. The WTO may conclude a headquarters agreement.

Article IX
Decision-Making

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.[1] Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States[2] which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.[3]

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths[4] of the Members unless otherwise provided for in this paragraph.

(a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time-period, which shall not exceed 90 days, to consider the request. If consensus is not reached during the time-period, any decision to grant a waiver shall be taken by three fourths4 of the Members.

(b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time-period which shall not exceed 90 days. At the end of the time-period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of that Agreement.

Article X
Amendments

1.Any Member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in Annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of Article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in Annex 1 the functioning of which they oversee. Unless the Ministerial Conference decides on a longer period, for a period of 90 days after the proposal has been tabled formally at the Ministerial Conference any decision by the Ministerial

Conference to submit the proposed amendment to the Members for acceptance shall be taken by consensus. Unless the provisions of paragraphs 2, 5 or 6 apply, that decision shall specify whether the provisions of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the Members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2, 5 and 6, the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the Members that the provisions of paragraph 4 shall apply.

2.Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all Members:

Article IX of this Agreement;
Articles I and II of GATT 1994;
Article II:1 of GATS;
Article 4 of the Agreement on TRIPS.

3.Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference.

4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would not alter the rights and obligations of the Members, shall take effect for all Members upon acceptance by two thirds of the Members.

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of GATS and the respective annexes shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under the preceding provision is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of GATS and the respective annexes shall take effect for all Members upon acceptance by two thirds of the Members.

6. Notwithstanding the other provisions of this Article, amendments to the Agreement on TRIPS meeting the requirements of paragraph 2 of Article 71 thereof may be adopted by the Ministerial Conference without further formal acceptance process.

7. Any Member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in Annex 1 shall deposit an instrument of acceptance with the Director-General of the WTO within the period of acceptance specified by the Ministerial Conference.

8. Any Member of the WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in Annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in Annex 2 shall be made by consensus and these amendments shall take effect for all Members upon approval by the Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in Annex 3 shall take effect for all Members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from Annex 4.

10. Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XI
Original Membership

1. The contracting parties to GATT 1947 as of the date of entry into force of this Agreement, and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to GATT 1994 and for which Schedules of Specific Commitments are annexed to GATS shall become original Members of the WTO.

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

Article XII
Accession

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.

3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XIII
Non-Application of Multilateral Trade Agreements between Particular Members

1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.

2. Paragraph 1 may be invoked between original Members of the WTO which were contracting parties to GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.

3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.

4. The Ministerial Conference may review the operation of this Article in particular cases at the request of any Member and make appropriate recommendations.

5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

Article XIV
Acceptance, Entry into Force and Deposit

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to GATT 1947, and the European Communities, which are eligible to become original Members of the WTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto. This Agreement and the Multilateral Trade Agreements annexed hereto shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the 30th day following the date of such acceptance.

2. A Member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.

3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. The Director-General shall promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and a notification of each acceptance thereof, to each government and the European Communities having accepted this Agreement. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.

Article XV
Withdrawal

1. Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XVI
Miscellaneous Provisions

1. Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947.

2. To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO, and

the Director-General to the CONTRACTING PARTIES to GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with paragraph 2 of Article VI of this Agreement, shall serve as Director-General of the WTO.

3. In the event of a conflict between a provision of this Agreement and a provision of any of the Multilateral Trade Agreements, the provision of this Agreement shall prevail to the extent of the conflict.

4. Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.

5.No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

6. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE AT MARRAKESH this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

Explanatory Notes:

The terms "country" or "countries" as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory Member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term "national", such expression shall be read as pertaining to that customs territory, unless otherwise specified.

LIST OF ANNEXES

ANNEX 1

ANNEX 1A: Multilateral Agreements on Trade in Goods

General Agreement on Tariffs and Trade 1994
Agreement on Agriculture
Agreement on the Application of Sanitary and Phytosanitary Measures
Agreement on Textiles and Clothing
Agreement on Technical Barriers to Trade
Agreement on Trade-Related Investment Measures
Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
Agreement on Preshipment Inspection
Agreement on Rules of Origin
Agreement on Import Licensing Procedures
Agreement on Subsidies and Countervailing Measures
Agreement on Safeguards

ANNEX 1B: General Agreement on Trade in Services and Annexes

ANNEX 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights

ANNEX 2

Understanding on Rules and Procedures Governing the Settlement of Disputes

ANNEX 3

Trade Policy Review Mechanism

ANNEX 4

Plurilateral Trade Agreements

Agreement on Trade in Civil Aircraft
Agreement on Government Procurement
International Dairy Agreement
International Bovine Meat Agreement

73. GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

1. The General Agreement on Tariffs and Trade 1994 ("GATT 1994") shall consist of:

(a) the provisions in the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application), as rectified, amended or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement;

(b) the provisions of the legal instruments set forth below that have entered into force under the GATT 1947 before the date of entry into force of the WTO Agreement:
  (i) protocols and certifications relating to tariff concessions;
  (ii) protocols of accession (excluding the provisions (*a*) concerning provisional application and withdrawal of provisional application and (*b*) providing that Part II of GATT 1947 shall be applied provisionally to the fullest extent not inconsistent with legislation existing on the date of the Protocol);
  (iii) decisions on waivers granted under Article XXV of GATT 1947 and still in force on the date of entry into force of the WTO Agreement[5];
  (iv) other decisions of the CONTRACTING PARTIES to GATT 1947;

(c) the Understandings set forth below:
  (i) Understanding on the Interpretation of Article II:1(b) of the General Agreement on Tariffs and Trade 1994;
  (ii) Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994;
  (iii) Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994;
  (iv) Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994;
  (v) Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994;
  (vi) Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994; and

(d) the Marrakesh Protocol to GATT 1994.

THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1947)

The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the French Republic, India, Lebanon, the Grand-Duchy of Luxemburg, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, Southern Rhodesia, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows:

PART I

Article I
General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

(a) Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;

(b) Preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;

(c) Preferences in force exclusively between the United States of America and the Republic of Cuba;

(d) Preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5, of Article XXV which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

4. The margin of preference* on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:

(a) in respect of duties or charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

(b) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in subparagraph (*a*) and (*b*) of this paragraph shall be replaced by the respective dates set forth in that Annex.

PART II

Article III*
National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.*

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.*

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.*

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; *Provided* that any such

regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

8.(*a*) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

Article XI*
General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

(b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

(c) Import restrictions on any agricultural or fisheries product, imported in any form,* necessary to the enforcement of governmental measures which operate:
   (i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or
   (ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or
   (iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

   Any contracting party applying restrictions on the importation of any product pursuant to subparagraph (*c*) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors* which may have affected or may be affecting the trade in the product concerned.

Article XX
General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the

adoption or enforcement by any contracting party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importations or exportations of gold or silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved;*

(i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

(j) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph not later than 30 June 1960.

SECTION V

DOCUMENTS OF THE INTERNATIONAL LAW ASSOCIATION (ILA) AND THE INTERNATIONAL LAW COMMISSION (ILC)

74. HELSINKI RULES ON THE USES OF THE WATERS OF INTERNATIONAL RIVERS

Adopted by the International Law Association at the fifty-second conference, held at Helsinki in August 1966. Report of the Committee on the Uses of the Waters of International Rivers (London, International Law Association, 1967)

CHAPTER 1
GENERAL

Article I

The general rules of international law as set forth in these chapters are applicable to the use of the waters of an international drainage basin except as may be provided otherwise by convention, agreement or binding custom among the basin States.

Article II

An international drainage basin is a geographical area extending over two or more States determined by the watershed limits of the system of waters, including surface and underground waters, flowing into a common terminus.

Article III

A "basin State" is a State the territory of which includes a portion of an international drainage basin.

CHAPTER 2
EQUITABLE UTILIZATION OF THE WATERS OF AN INTERNATIONAL DRAINAGE BASIN

Article IV

Each basin State is entitled, within its territory, to a reasonable and equitable share in the beneficial uses of the waters of an international drainage basin.

Article V

What is a reasonable and equitable share within the meaning of article IV to be determined in the light of all the relevant factors in each particular case.

Relevant factors which are to be considered include, but are not limited to:

1. The geography of the basin, including in particular the extent of the drainage area in the territory of each basin State;
2. The hydrology of the basin, including in particular the contribution of water by each basin State;
3. The climate affecting the basin;
4. The past utilization of the waters of the basin; including in particular existing utilization;
5. The economic and social needs of each basin State;
6. The population dependent on the waters of the basin in each basin State;
7. The comparative costs of alternative means of satisfying the economic and social needs of each basin State;
8. The availability of other resources;
9. The avoidance of unnecessary waste in the utilization of waters of the basin;
10. The practicability of compensation to one or more of the co-basin States as a means of adjusting conflicts among uses; and
11. The degree to which the needs of a basin State may be satisfied, without causing substantial injury to a co-basin State.

The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is reasonable and equitable share, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

Article VI

A use or category of uses is not entitled to any inherent preference over any other use or category of uses.

Article VII

A basin State may not be denied the present reasonable use of the waters of an international drainage basin to reserve for a co-basin State a future use of such waters.

Article VIII

1. An existing reasonable use may continue in operation unless the factors justifying its continuance are outweighed by other factors leading to the conclusion that it be modified or terminated so as to accommodate a competing incompatible use.

2. (a) A use that is in fact operational is deemed to have been an existing use from the time of the initiation of construction directly related to the use or, where such construction is not required, the undertaking of comparable acts of actual implementation.

(b) Such a use continues to be an existing use until such time as it is discontinued with the intention that it be abandoned.

3. A use will not be deemed an existing use if at the time of becoming operational it is incompatible with an already existing reasonable use.

CHAPTER 3
POLLUTION

Article IX

As used in this chapter, the term "water pollution" refers to any detrimental change resulting from human conduct in the natural composition, content, or quality of the waters of an international drainage basin.

Article X

1. Consistent with the principle of equitable utilization of the waters of an international drainage basin, a State:

(a) Must prevent any new form of water pollution or any increase in the degree of existing water pollution in an international drainage basin which would cause substantial injury in the territory of a co-basin State;

(b) Should take all reasonable measures to abate existing water pollution in an international drainage basin to such an extent that no substantial damage is caused in the territory of a co-basin State.

2. The rule stated in paragraph 1 of this article applies to water pollution originating:

(a) Within a territory of the State; or

(b) Outside the territory of the State, if it is caused by the State's conduct.

Article XI

1.In the case of a violation of the rule stated in paragraph 1 (a) of article X of this chapter, the State responsible shall be required to cease the wrongful conduct and compensate the injured co-basin State for the injury that has been caused to it.

2.In a case falling under the rule stated in paragraph 1 (b) of article X, if a State fails to take reasonable measures, it shall be required promptly to enter into negotiations with the injured State with a view towards reaching a settlement equitable under the circumstances.

CHAPTER 4 . NAVIGATION
(Articles XII-XX)

CHAPTER 5. TIMBER FLOATING
(Articles XXI-XXV)

CHAPTER 6. PROCEDURES FOR THE PREVENTION AND SETTLEMENT OF DISPUTES

Article XXVI

This chapter relates to procedures for the prevention and settlement of international disputes as to the legal rights or other interests of basin States and of other States in the waters of an international drainage basin.

Article XXVII

Consistently with the Charter of the United Nations, States are under an obligation to settle international disputes as to their legal rights or other interests by peaceful means in such a manner that international peace and security and justice are not endangered.

It is recommended that States resort progressively to the means of prevention and settlement of disputes stipulated in articles XXIX to XXXIV of this chapter.

Article XXVIII

1. States are under a primary obligation to resort to means of prevention and settlement of disputes stipulated in the applicable treaties binding upon them.

2. States are limited to the means of prevention and settlement of disputes stipulated in treaties binding upon them only to the extent provided by the applicable treaties.

Article XXIX

1. With a view to preventing disputes from arising between basin States as to their legal rights or other interest, it is recommended that each basin State furnish relevant and reasonably available information to the other basin States concerning the waters of a drainage basin within its territory and its use of, and activities with respect to, such waters.

2. A State, regardless of its location in a drainage basin, should in particular furnish to any other basin State, the interests of which may be substantially affected, notice of any proposed construction or installation which would alter the regime of the basin in a way which might give rise to a dispute as defined in article XXVI. The notice should include such essential facts as will permit the recipient to make an assessment of the probable effect of the proposed alteration.

3. A State providing the notice referred to in paragraph 2 of this article should afford the recipient a reasonable period of time to make an assessment of the probable effect of the proposed construction or installation and to submit its views thereon to the State furnishing the notice.

4. If a State has failed to give the notice referred to in paragraph 2 of this article, the alteration by the State in the regime of the drainage basin shall not be given the weight normally accorded to temporal priority in use in the event of a determination of what is a reasonable and equitable share of the waters of the basin.

Article XXX

In case of a dispute between States as to their legal rights or other interests, as defined in article XXVI, they should seek a solution by negotiation.

Article XXXI

1. If a question or dispute arises which relates to the present or future utilization of the waters of an international drainage basin, it is recommended that the basin States refer the question or dispute to a joint agency and that they request the agency to survey the international drainage basin and to formulate plans or recommendations for the fullest and most efficient use thereof in the interests of all such States.

2. It is recommended that the joint agency be instructed to submit reports on all matters within its competence to the appropriate authorities of the member States concerned.

3. It is recommended that the member States of the joint agency in appropriate cases invite non-basin States which by treaty enjoy a right in the use of the waters of an international drainage basin to associate themselves with the work of the joint agency or that they be permitted to appear before the agency.

Article XXXII

If a question or a dispute is one which is considered by the States concerned to be incapable of resolution in the manner set forth in article XXXI, it is recommended that they seek the good offices, or jointly request the mediation of a third State, of a qualified international organization or of a qualified person.

Article XXXIII

1. If the States concerned have not been able to resolve their dispute through negotiation or have been unable to agree on the measures described in articles XXXI and XXXII, it is recommended that they form a commission of inquiry or an ad hoc conciliation commission, which shall endeavor to find a solution, likely to be accepted by the States concerned, of any dispute as to their legal rights.

2. It is recommended that the conciliation commission be constituted in the manner set forth in the annex.

Article XXXIV

It is recommended that the States concerned agree to submit their legal disputes to an ad hoc arbitral tribunal, to a permanent arbitral tribunal or to the International Court of Justice if:

(a) A commission has not been formed as provided in article XXXIII; or

(b) The commission has not been able to find a solution to be recommended; or

(c) A solution recommended has not been accepted by the States concerned, and

(d) An agreement has not been otherwise arrived at.

Article XXXV

It is recommended that in the event of arbitration the States concerned have recourse to the Model Rules on Arbitral Procedure prepared by the International Law Commission of the United Nations at its tenth session b/in 1958.

Article XXXVI

Recourse to arbitration implies the undertaking by the States concerned to consider the award to be given as final and to submit in good faith to its execution.

Article XXXVII

The means of settlement referred to in the preceding articles of this chapter are without prejudice to the utilization of means of settlement recommended to, or required of, members of regional arrangements or agencies and of other international organizations.

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[1] The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

[2] The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.

[3] Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding.

[4] A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period shall be taken only by consensus.

75. INTERNATIONAL LAW COMMISSION DRAFT ARTICLES ON RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS

PART ONE
THE INTERNATIONALLY WRONGFUL ACT OF A STATE

CHAPTER I
GENERAL PRINCIPLES

Article 1
Responsibility of a State for its internationally wrongful acts

Every internationally wrongful act of a State entails the international responsibility of that State.

Article 2
Elements of an internationally wrongful act of a State

There is an internationally wrongful act of a State when conduct consisting of an action or omission:

(a) Is attributable to the State under international law; and

(b) Constitutes a breach of an international obligation of the State.

Article 3
Characterization of an act of a State as internationally wrongful

The characterization of an act of a State as internationally wrongful is governed by international law. Such characterization is not affected by the characterization of the same act as lawful by internal law.

CHAPTER II
ATTRIBUTION OF CONDUCT TO A STATE

Article 4
Conduct of organs of a State

1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State.

2. An organ includes any person or entity which has that status in accordance with the internal law of the State.

Article 5
Conduct of persons or entities exercising elements of governmental authority

The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.

Article 6
Conduct of organs placed at the disposal of a State by another State

The conduct of an organ placed at the disposal of a State by another State shall be considered an act of the former State under international law if the organ is acting in the exercise of elements of the governmental authority of the State at whose disposal it is placed.

Article 7
Excess of authority or contravention of instructions

The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.

Article 8
Conduct directed or controlled by a State

The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.

Article 9
Conduct carried out in the absence or default of the official authorities

The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority.

Article 10
Conduct of an insurrectional or other movement

1. The conduct of an insurrectional movement which becomes the new government of a State shall be considered an act of that State under international law.

2. The conduct of a movement, insurrectional or other, which succeeds in establishing a new State in part of the territory of a pre-existing State or in a territory under its administration shall be considered an act of the new State under international law.

3. This article is without prejudice to the attribution to a State of any conduct, however related to that of the movement concerned, which is to be considered an act of that State by virtue of articles 4 to 9.

Article 11
Conduct acknowledged and adopted by a State as its own

Conduct which is not attributable to a State under the preceding articles shall nevertheless be considered an act of that State under international law if and to the extent hat the State acknowledges and adopts the conduct in question as its own.

CHAPTER III
BREACH OF AN INTERNATIONAL OBLIGATION

Article 12
Existence of a breach of an international obligation

There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.

Article 13
International obligation in force for a State

An act of a State does not constitute a breach of an international obligation unless the State is bound by the obligation in question at the time the act occurs.

Article 14
Extension in time of the breach of an international obligation

1. The breach of an international obligation by an act of a State not having a continuing character occurs at the moment when the act is performed, even if its effects continue.

2. The breach of an international obligation by an act of a State having a continuing character extends over the entire period during which the act continues and remains not in conformity with the international obligation.

3. The breach of an international obligation requiring a State to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation.

Article 15
Breach consisting of a composite act

1. The breach of an international obligation by a State through a series of actions or omissions defined in aggregate as wrongful, occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act.

2. In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.

CHAPTER IV
RESPONSIBILITY OF A STATE IN CONNECTION WITH THE ACT OF ANOTHER STATE

Article 16
Aid or assistance in the commission of an internationally wrongful act

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

(a) That State does so with knowledge of the circumstances of the internationally wrongful act; and

(b) The act would be internationally wrongful if committed by that State.

Article 17
Direction and control exercised over the commission of an internationally wrongful act

A State which directs and controls another State in the commission of an internationally wrongful act by the latter is internationally responsible for that act if:

(a) That State does so with knowledge of the circumstances of the internationally wrongful act; and

(b) The act would be internationally wrongful if committed by that State.

Article 18
Coercion of another State

A State which coerces another State to commit an act is internationally responsible for that act if:

(a) The act would, but for the coercion, be an internationally wrongful act of the coerced State; and

(b) The coercing State does so with knowledge of the circumstances of the act.

Article 19
Effect of this chapter

This chapter is without prejudice to the international responsibility, under other provisions of these articles, of the State which commits the act in question, or of any other State.

CHAPTER V
CIRCUMSTANCES PRECLUDING WRONGFULNESS

Article 20
Consent

Valid consent by a State to the commission of a given act by another State precludes the wrongfulness of that act in relation to the former State to the extent that the act remains within the limits of that consent.

Article 21
Self-defence

The wrongfulness of an act of a State is precluded if the act constitutes a lawful measure of self-defence taken in conformity with the Charter of the United Nations.

Article 22
Countermeasures in respect of an internationally wrongful act

The wrongfulness of an act of a State not in conformity with an international obligation towards another State is precluded if and to the extent that the act constitutes a countermeasure taken against the latter State in accordance with chapter II of Part Three.

Article 23
Force majeure

1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the act is due to *force majeur*e, that is the occurrence of an irresistible force or of an unforeseen event, beyond the control of the State, making it materially impossible in the circumstances to perform the obligation.

2. Paragraph 1 does not apply if:

(a) The situation of force majeure is due, either alone or in combination with other factors, to the conduct of the State invoking it; or

(b) The State has assumed the risk of that situation occurring.

Article 24
Distress

1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the author of the act in question has no other reasonable way, in a situation of distress, of saving the authors life or the lives of other persons entrusted to the author's care.

2. Paragraph 1 does not apply if:

(a) The situation of distress is due, either alone or in combination with other factors, to the conduct of the State invoking it; or

(b) The act in question is likely to create a comparable or greater peril.

Article 25
Necessity

1. Necessity may not be invoked by a State as a ground for precluding the wrongfulness of an act not in conformity with an international obligation of that State unless the act:

(a) Is the only way for the State to safeguard an essential interest against a grave and imminent peril; and

(b) Does not seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.

2. In any case, necessity may not be invoked by a State as a ground for precluding wrongfulness if:

(a) The international obligation in question excludes the possibility of invoking necessity; or

(b) The State has contributed to the situation of necessity.

Article 26
Compliance with peremptory norms

Nothing in this chapter precludes the wrongfulness of any act of a State which is not in conformity with an obligation arising under a peremptory norm of general international law.

Article 27
Consequences of invoking a circumstance precluding wrongfulness

The invocation of a circumstance precluding wrongfulness in accordance with this chapter is without prejudice to:

(a) Compliance with the obligation in question, if and to the extent that the circumstance precluding wrongfulness no longer exists;

(b) The question of compensation for any material loss caused by the act in question.

PART TWO
CONTENT OF THE INTERNATIONAL RESPONSIBILITY OF A STATE

CHAPTER I
GENERAL PRINCIPLES

Article 28
Legal consequences of an internationally wrongful act

The international responsibility of a State which is entailed by an internationally wrongful act in accordance with the provisions of Part One involves legal consequences as set out in this Part.

Article 29
Continued duty of performance

The legal consequences of an internationally wrongful act under this Part do not affect the continued duty of the responsible State to perform the obligation breached.

Article 30
Cessation and non-repetition

The State responsible for the internationally wrongful act is under an obligation:

(a) To cease that act, if it is continuing;

(b) To offer appropriate assurances and guarantees of non-repetition, if circumstances so require.

Article 31
Reparation

1. The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.

2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.

Article 32
Irrelevance of internal law

The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this Part.

Article 33
Scope of international obligations set out in this Part

(a) The obligations of the responsible State set out in this Part may be owed to another State, to several States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach.

(b) This Part is without prejudice to any right, arising from the international responsibility of a State, which may accrue directly to any person or entity other than a State.

CHAPTER II
REPARATION FOR INJURY

Article 34
Forms of reparation

Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter.

Article 35
Restitution

A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:

(a) Is not materially impossible;

(b) Does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.

Article 36
Compensation

1. The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution.

2. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.

Article 37
Satisfaction

1. The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation.

2. Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality.

3. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State.

Article 38
Interest

1. Interest on any principal sum due under this chapter shall be payable when necessary in order to ensure full reparation. The interest rate and mode of calculation shall be set so as to achieve that result.

2. Interest runs from the date when the principal sum should have been paid until the date the obligation to pay is fulfilled.

Article 39
Contribution to the injury

In the determination of reparation, account shall be taken of the contribution to the injury by wilful or negligent action or omission of the injured State or any person or entity in relation to whom reparation is sought.

CHAPTER III
SERIOUS BREACHES OF OBLIGATIONS UNDER PEREMPTORY NORMS OF GENERAL INTERNATIONAL LAW

Article 40
Application of this chapter

1. This chapter applies to the international responsibility which is entailed by a serious breach by a State of an obligation arising under a peremptory norm of general international law.

2. A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible State to fulfil the obligation.

Article 41
Particular consequences of a serious breach of an obligation under this chapter

1. States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40.

2. No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation.

3. This article is without prejudice to the other consequences referred to in this Part and to such further consequences that a breach to which this chapter applies may entail under international law.

PART THREE
THE IMPLEMENTATION OF THE INTERNATIONAL RESPONSIBILITY OF A STATE

CHAPTER I
INVOCATION OF THE RESPONSIBILITY OF A STATE

Article 42
Invocation of responsibility by an injured State

A State is entitled as an injured State to invoke the responsibility of another State if the obligation breached is owed to:

(a) That State individually; or

(b) A group of States including that State, or the international community as a whole, and the breach of the obligation:
  (i) Specially affects that State; or
  (ii) Is of such a character as radically to change the position of all the other States to which the obligation is owed with respect to the further performance of the obligation.

Article 43
Notice of claim by an injured State

1. An injured State which invokes the responsibility of another State shall give notice of its claim to that State.

2. The injured State may specify in particular:

(a) The conduct that the responsible State should take in order to cease the wrongful act, if it is continuing;

(b) What form reparation should take in accordance with the provisions of Part Two.

Article 44
Admissibility of claims

The responsibility of a State may not be invoked if:

(a) The claim is not brought in accordance with any applicable rule relating to the nationality of claims;

(b) The claim is one to which the rule of exhaustion of local remedies applies and any available and effective local remedy has not been exhausted.

Article 45
Loss of the right to invoke responsibility

The responsibility of a State may not be invoked if:

(a) The injured State has validly waived the claim;

(b) The injured State is to be considered as having, by reason of its conduct, validly acquiesced in the lapse of the claim.

Article 46
Plurality of injured States

Where several States are injured by the same internationally wrongful act, each injured State may separately invoke the responsibility of the State which has committed the internationally wrongful act.

Article 47
Plurality of responsible States

1. Where several States are responsible for the same internationally wrongful act, the responsibility of each State may be invoked in relation to that act.

2. Paragraph 1:

(a) Does not permit any injured State to recover, by way of compensation, more than the damage it has suffered;

(b) Is without prejudice to any right of recourse against the other responsible States.

Article 48
Invocation of responsibility by a State other than an injured State

1. Any State other than an injured State is entitled to invoke the responsibility of another State in accordance with paragraph 2 if:

(a) The obligation breached is owed to a group of States including that State, and is established for the protection of a collective interest of the group; or

(b) The obligation breached is owed to the international community as a whole.

2. Any State entitled to invoke responsibility under paragraph 1 may claim from the responsible State:

(a) Cessation of the internationally wrongful act, and assurances and guarantees of non-repetition in accordance with article 30; and

(b) Performance of the obligation of reparation in accordance with the preceding articles, in the interest of the injured State or of the beneficiaries of the obligation breached.

3. The requirements for the invocation of responsibility by an injured State under articles 43, 44 and 45 apply to an invocation of responsibility by a State entitled to do so under paragraph 1.

CHAPTER II
COUNTERMEASURES

Article 49
Object and limits of countermeasures

1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under Part Two.

2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State.

3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question.

Article 50
Obligations not affected by countermeasures

1. Countermeasures shall not affect:

(a) The obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations;

(b) Obligations for the protection of fundamental human rights;

(c) Obligations of a humanitarian character prohibiting reprisals;

(d) Other obligations under peremptory norms of general international law.

2. A State taking countermeasures is not relieved from fulfilling its obligations:

(a) Under any dispute settlement procedure applicable between it and the responsible State;

(b) To respect the inviolability of diplomatic or consular agents, premises, archives and documents.

Article 51
Proportionality

Countermeasures must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question.

Article 52
Conditions relating to resort to countermeasures

1. Before taking countermeasures, an injured State shall:

(a) Call on the responsible State, in accordance with article 43, to fulfil its obligations under Part Two;

(b) Notify the responsible State of any decision to take countermeasures and offer to negotiate with that State.

2. Notwithstanding paragraph 1 (b), the injured State may take such urgent countermeasures as are necessary to preserve its rights.

3. Countermeasures may not be taken, and if already taken must be suspended without undue delay if:

(a) The internationally wrongful act has ceased; and

(b) The dispute is pending before a court or tribunal which has the authority to make decisions binding on the parties.

4. Paragraph 3 does not apply if the responsible State fails to implement the dispute settlement procedures in good faith.

Article 53
Termination of countermeasures

Countermeasures shall be terminated as soon as the responsible State has complied with its obligations under Part Two in relation to the internationally wrongful act.

Article 54
Measures taken by States other than an injured State

This chapter does not prejudice the right of any State, entitled under article 48, paragraph 1 to invoke the responsibility of another State, to take lawful measures against that State to ensure cessation of the breach and reparation in the interest of the injured State or of the beneficiaries of the obligation breached.

PART FOUR
GENERAL PROVISIONS

Article 55
Lex specialis

These articles do not apply where and to the extent that the conditions for the existence of an internationally wrongful act or the content or implementation of the international responsibility of a State are governed by special rules of international law.

Article 56
Questions of State responsibility not regulated by these articles

The applicable rules of international law continue to govern questions concerning the responsibility of a State for an internationally wrongful act to the extent that they are not regulated by these articles.

Article 57
Responsibility of an international organization

These articles are without prejudice to any question of the responsibility under international law of an international organization, or of any State for the conduct of an international organization.

Article 58
Individual responsibility

These articles are without prejudice to any question of the individual responsibility under international law of any person acting on behalf of a State.

Article 59
Charter of the United Nations

These articles are without prejudice to the Charter of the United Nations.

76. INTERNATIONAL LAW COMMISSION DRAFT ARTICLES ON PREVENTION OF TRANSBOUNDARY HARM FROM HAZARDOUS ACTIVITIES

The States Parties,

Having in mind Article 13, paragraph 1 (a) of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

*Bearing in mind*the principle of permanent sovereignty of States over the natural resources within their territory or otherwise under their jurisdiction or control,

*Bearing also in mind*that the freedom of States to carry on or permit activities in their territory or otherwise under their jurisdiction or control is not unlimited,

Recalling the Rio Declaration on Environment and Development of 13 June 1992,

*Recognizing*the importance of promoting international cooperation,

Have agreed as follows:

Article 1
Scope

The present articles apply to activities not prohibited by international law which involve a risk of causing significant transboundary harm through their physical consequences.

Article 2
Use of terms

For the purposes of the present articles:

(a) "Risk of causing significant transboundary harm" includes risks taking the form of a high probability of causing significant transboundary harm and a low probability of causing disastrous transboundary harm;

(b) "Harm" means harm caused to persons, property or the environment;

(c) "Transboundary harm" means harm caused in the territory of or in other places under the jurisdiction or control of a State other than the State of origin, whether or not the States concerned share a common border;

(d) "State of origin" means the State in the territory or otherwise under the jurisdiction or control of which the activities referred to in article 1 are planned or are carried out;

(e) "State likely to be affected" means the State or States in the territory of which there is the risk of significant transboundary harm or which have jurisdiction or control over any other place where there is such a risk;

(f) "States concerned" means the State of origin and the State likely to be affected.

Article 3
Prevention

The State of origin shall take all appropriate measures to prevent significant transboundary harm or at any event to minimize the risk thereof.

Article 4
Cooperation

States concerned shall cooperate in good faith and, as necessary, seek the assistance of one or more competent international organizations in preventing significant transboundary harm or at any event in minimizing the risk thereof.

Article 5
Implementation

States concerned shall take the necessary legislative, administrative or other action including the establishment of suitable monitoring mechanisms to implement the provisions of the present articles.

Article 6
Authorization

1. The State of origin shall require its prior authorization for:

(a) Any activity within the scope of the present articles carried out in its territory or otherwise under its jurisdiction or control;

(b) Any major change in an activity referred to in subparagraph (a);

(c) Any plan to change an activity which may transform it into one falling within the scope of the present articles.

2. The requirement of authorization established by a State shall be made applicable in respect of all pre-existing activities within the scope of the present articles. Authorizations already issued by the State for pre-existing activities shall be reviewed in order to comply with the present articles.

3. In case of a failure to conform to the terms of the authorization, the State of origin shall take such actions as appropriate, including where necessary terminating the authorization.

Article 7
Assessment of risk

Any decision in respect of the authorization of an activity within the scope of the present articles shall, in particular, be based on an assessment of the possible transboundary harm caused by that activity, including any environmental impact assessment.

Article 8
Notification and information

1. If the assessment referred to in article 7 indicates a risk of causing significant transboundary harm, the State of origin shall provide the State likely to be affected with timely notification of the risk and the assessment and shall transmit to it the available technical and all other relevant information on which the assessment is based.

2. The State of origin shall not take any decision on authorization of the activity pending the receipt, within a period not exceeding six months, of the response from the State likely to be affected.

Article 9
Consultations on preventive measures

1. The States concerned shall enter into consultations, at the request of any of them, with a view to achieving acceptable solutions regarding measures to be adopted in order to prevent significant transboundary harm or at any event to minimize the risk thereof. The States concerned shall agree, at the commencement of such consultations, on a reasonable time-frame for the consultations.

2. The States concerned shall seek solutions based on an equitable balance of interests in the light of article 10.

3. If the consultations referred to in paragraph 1 fail to produce an agreed solution, the State of origin shall nevertheless take into account the interests of the State likely to be affected in case it decides to authorize the activity to be pursued, without prejudice to the rights of any State likely to be affected.

Article 10
Factors involved in an equitable balance of interests

In order to achieve an equitable balance of interests as referred to in paragraph 2 of article 9, the States concerned shall take into account all relevant factors and circumstances, including:

(a) The degree of risk of significant transboundary harm and of the availability of means of preventing such harm, or minimizing the risk thereof or repairing the harm;

(b) The importance of the activity, taking into account its overall advantages of a social, economic and technical character for the State of origin in relation to the potential harm for the State likely to be affected;

(c) The risk of significant harm to the environment and the availability of means of preventing such harm, or minimizing the risk thereof or restoring the environment;

(d) The degree to which the State of origin and, as appropriate, the State likely to be affected are prepared to contribute to the costs of prevention;

(e) The economic viability of the activity in relation to the costs of prevention and to the possibility of carrying out the activity elsewhere or by other means or replacing it with an alternative activity;

(f) The standards of prevention which the State likely to be affected applies to the same or comparable activities and the standards applied in comparable regional or international practice.

Article 11
Procedures in the absence of notification

1. If a State has reasonable grounds to believe that an activity planned or carried out in the State of origin may involve a risk of causing significant transboundary harm to it, it may request the State of origin to apply the provision of article 8. The request shall be accompanied by a documented explanation setting forth its grounds.

2. In the event that the State of origin nevertheless finds that it is not under an obligation to provide a notification under article 8, it shall so inform the requesting State within a reasonable time, providing a documented explanation setting forth the reasons for such finding. If this finding does not satisfy that State, at its request, the two States shall promptly enter into consultations in the manner indicated in article 9.

3. During the course of the consultations, the State of origin shall, if so requested by the other State, arrange to introduce appropriate and feasible measures to minimize the risk and, where appropriate, to suspend the activity in question for a reasonable period.

Article 12
Exchange of information

While the activity is being carried out, the States concerned shall exchange in a timely manner all available information concerning that activity relevant to preventing significant transboundary harm or at any event minimizing the risk thereof. Such an exchange of information shall continue until such time as the States concerned consider it appropriate even after the activity is terminated.

Article 13
Information to the public

States concerned shall, by such means as are appropriate, provide the public likely to be affected

by an activity within the scope of the present articles with relevant information relating to that activity, the risk involved and the harm which might result and ascertain their views.

Article 14
National security and industrial secrets

Data and information vital to the national security of the State of origin or to the protection of industrial secrets or concerning intellectual property may be withheld, but the State of origin shall cooperate in good faith with the State likely to be affected in providing as much information as possible under the circumstances.

Article 15
Non-discrimination

Unless the States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who may be or are exposed to the risk of significant transboundary harm as a result of an activity within the scope of the present articles, a State shall not discriminate on the basis of nationality or residence or place where the injury might occur, in granting to such persons, in accordance with its legal system, access to judicial or other procedures to seek protection or other appropriate redress.

Article 16
Emergency preparedness

The State of origin shall develop contingency plans for responding to emergencies, in cooperation, where appropriate, with the State likely to be affected and competent international organizations.

Article 17
Notification of an emergency

The State of origin shall, without delay and by the most expeditious means, at its disposal, notify the State likely to be affected of an emergency concerning an activity within the scope of the present articles and provide it with all relevant and available information.

Article 18
Relationship to other rules of international law

The present articles are without prejudice to any obligation incurred by States under relevant treaties or rules of customary international law.

Article 19
Settlement of disputes

1. Any dispute concerning the interpretation or application of the present articles shall be settled expeditiously through peaceful means of settlement chosen by mutual agreement of the parties to the dispute, including negotiations, mediation, conciliation, arbitration or judicial settlement.

2. Failing an agreement on the means for the peaceful settlement of the dispute within a period of six months, the parties to the dispute shall, at the request of any of them, have recourse to the establishment of an impartial fact-finding commission.

3. The Fact-finding Commission shall be composed of one member nominated by each party to the dispute and in addition a member not having the nationality of any of the parties to the dispute chosen by the nominated members who shall serve as Chairperson.

4. If more than one State is involved on one side of the dispute and those States do not agree on a common member of the Commission and each of them nominates a member, the other party to the dispute has the right to nominate an equal number of members of the Commission.

5. If the members nominated by the parties to the dispute are unable to agree on a Chairperson within three months of the request for the establishment of the Commission, any party to the dispute may request the Secretary-General of the United Nations to appoint the Chairperson who shall not have the nationality of any of the parties to the dispute. If one of the parties to the dispute fails to nominate a member within three months of the initial request pursuant to paragraph 2, any other party to the dispute may request the Secretary-General of the United Nations to appoint a person who shall not have the nationality of any of the parties to the dispute. The person so appointed shall constitute a single-member Commission.

6. The Commission shall adopt its report by a majority vote, unless it is a single-member Commission, and shall submit that report to the parties to the dispute setting forth its findings and recommendations, which the parties to the dispute shall consider in good faith.